

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 - - - - - X

4 UNITED STATES OF AMERICA, : 09cr395

5 :

6 -against-

7 :

United States Courthouse
Brooklyn, New York

8 ANTHONY PRADDY, :

9 April 26, 2011

10 Defendant. : 10:00 o'clock

- - - - - X

11 TRANSCRIPT OF TRIAL
12 BEFORE THE HONORABLE FREDERIC BLOCK
13 UNITED STATES DISTRICT JUDGE, and a jury

14 APPEARANCES:

15 For the Government:

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United States Attorney
BY: SETH DAVID DuCHARME
ANDREW EDWARD GOLDSMITH
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19 For the Defendant:

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23 Proceedings recorded by mechanical stenography, transcript
24 produced by computer-aided transcription.
25

1 (Open court-case called-appearances noted.)

2 THE COURT: On the record.

3 Mr. Dinnerstein, you want to bring the jurors in and
4 get a quick start? What do you have to say?

5 MR. DINNERSTEIN: I had asked yesterday to introduce
6 a document and I didn't mark it. So I would ask that the
7 document that I intended to introduce, which was --

8 THE COURT: Which was?

9 MR. DINNERSTEIN: HM 102.

10 THE COURT: The record will reflect that it was
11 marked for identification. If I recall correctly I said I'm
12 thinking this is a document that should be admitted into
13 evidence. So we have a record on that.

14 MR. DINNERSTEIN: I want to make sure that it's
15 marked for identification.

16 THE COURT: Let's bring the jurors in. We'll have
17 our next witness come into the courtroom in the meantime.

18 (Pause.)

19 (Jury present.)

20 THE COURT: Good morning everybody. I think we're
21 ready to hear the end of the government's case this morning,
22 perhaps, or shortly thereafter.

23 The next witness, Mr. Goldsmith is who?

24 MR. GOLDSMITH: The government calls Abdo
25 Dhaifallah.

1 THE CLERK: State and spell your name.

2 THE WITNESS: A-B-D-O D-H-A-I-F-A-L-L-A-H.

3 ABDO DHAIFALLAH,

4 called as a witness, having been first duly sworn,

5 was examined and testified as follows:

6 THE COURT: Keep your voice up, Mr. Dhaifallah. We
7 have a microphone that is on. Try to get comfortable with it.

8 Say good "morning Judge Block."

9 THE WITNESS: Good morning, Judge.

10 THE COURT: You can lean back a little bit and we'll
11 be okay. Your witness.

12 DIRECT EXAMINATION

13 BY MR. GOLDSMITH:

14 Q Mr. Dhaifallah, what do you do for a living?

15 A Work in a store.

16 Q How long have you been working in that store?

17 A Three year.

18 Q Sorry?

19 A Three years.

20 THE COURT: You're probably nervous, right? Are you
21 nervous now? Your hands are shaking, your feet are shaking.

22 THE WITNESS: Yes.

23 THE COURT: Try to articulate more clearly so
24 everybody can hear your nice voice.

25 Go ahead.

1 Q What store was it that you worked in for three years?

2 A 3111 Church Avenue.

3 Q Does that store have a name?

4 A TR candy store.

5 THE COURT: KR?

6 THE WITNESS: T.

7 THE COURT: It's a candy store. It's TR?

8 THE WITNESS: TR.

9 THE COURT: Spell it.

10 THE WITNESS: I can't spell it.

11 THE COURT: Okay. TR, whatever that is.

12 Go ahead.

13 MR. GOLDSMITH: I'm putting Government Exhibit 444
14 on the screen.

15 Q Mr. Dhaifallah, do you recognize that?

16 A Yes. That is the store I work.

17 Q That's the store where you used to work?

18 A Yes.

19 Q Is that the name of it there on the awning?

20 A Yes.

21 THE COURT: Can you see it there?

22 THE CLERK: T-A-Y-A-R.

23 Q What did you do there, Mr. Dhaifallah?

24 A Working.

25 Q What sort of work?

- 1 A Register.
- 2 Q When did you work there?
- 3 A I think 2008 to 2009. I went to Yemen, came back.
- 4 Q What did you do when you came back from Yemen?
- 5 A I work there.
- 6 Q For how long?
- 7 A Another year.
- 8 Q You worked there about two years; is that right?
- 9 A Yeah, about two years.
- 10 Q When you worked at Tayar, how many days a week did you
- 11 work there?
- 12 A Seven days.
- 13 Q When you were working there did you see people in the
- 14 store selling drugs?
- 15 A Yes.
- 16 Q How often?
- 17 A Almost every day.
- 18 Q What types of drugs were they selling?
- 19 A Weed, marijuana.
- 20 Q How did you know they were selling marijuana?
- 21 A I was working in the store and they sell in the store.
- 22 Q Did you ever buy from them?
- 23 A Yeah.
- 24 Q Buy marijuana?
- 25 A Yeah.

1 Q How many people sold marijuana in the store?

2 A Three or four guys.

3 Q Do you know the names of any of those people?

4 A Not like -- yeah. Two of them.

5 Q What names do you know?

6 A Bird.

7 Q Bird is the first one?

8 A Yeah.

9 Q What is the second one?

10 A I don't remember his name.

11 Q Do you see anyone in the courtroom today who you bought
12 marijuana from?

13 A Yeah.

14 Q Point him out, please, and tell us what he's wearing.

15 A He's wearing the purple shirt.

16 THE COURT: The record will reflect that the witness
17 has identified the defendant.

18 Q Did you know a name for the defendant, sir?

19 A Yeah, Bird.

20 Q That's Bird?

21 A Yeah.

22 Q How often did you buy marijuana from Bird?

23 A Two or three days.

24 Q Two or three days a week?

25 A Ahuh.

1 Q How much --

2 MR. DINNERSTEIN: Objection to the leading form of
3 the question, your Honor.

4 THE COURT: I don't know whether that is such a bad
5 question. Overruled.

6 Q How much marijuana did you buy at a time, sir?

7 A A quarter, a quarter ounce.

8 Q A quarter ounce?

9 A Yeah.

10 Q Who did you buy that marijuana for?

11 A Sometimes me, sometimes for a friend.

12 Q Over the past couple of years you've been interviewed a
13 few times by the FBI, right?

14 A Yeah.

15 Q The first couple of times you were interviewed did you
16 tell the FBI that you had bought marijuana from Bird?

17 A No.

18 Q Why not?

19 A They haven't asked me the question.

20 MR. GOLDSMITH: May I approach, your Honor?

21 THE COURT: You may.

22 Q Sir, I'm going to show you a couple of photos that are in
23 evidence and ask if you recognize these people.

24 Government Exhibit 111, do you recognize that?

25 A Yes.

- 1 Q Who's that?
- 2 A Bird.
- 3 Q Try to speak up, please.
- 4 A Bird.
- 5 Q Government Exhibit 113, do you recognize this person?
- 6 A Yeah.
- 7 Q Do you know a name for him?
- 8 A No.
- 9 Q Government Exhibit 108. Do you recognize this person?
- 10 A Yeah.
- 11 Q Do you know a name for him?
- 12 A No.
- 13 Q Government Exhibit 112. Do you recognize this person?
- 14 A Yeah.
- 15 Q Do you know a name for him?
- 16 A No.
- 17 Q Sorry?
- 18 A No.
- 19 Q Government Exhibit 115. Do you recognize him?
- 20 A Yeah.
- 21 Q Do you know a name for him?
- 22 A I think T, that's what they call him. I'm not sure.
- 23 Q Starting from the left, Mr. Dhaifallah, you said that
- 24 first photo is Bird?
- 25 A Yes.

1 Q The next photo, how do you recognize the person in the
2 next photo, Government Exhibit 113?

3 A I don't understand.

4 Q How do you know him? Where have you seen him before?

5 A I seen him in the store.

6 Q What did you seen him doing in the store?

7 A One time he comes in, he --

8 THE COURT: Listen to me, young man. Stop and count
9 to ten and now speak more clearly and louder.

10 When you sell things in the store, do you mumble
11 like that or do you speak up more clearly?

12 THE WITNESS: No.

13 THE COURT: Pretend you're in the store right now
14 selling me candy. You got to do that.

15 THE WITNESS: Okay.

16 THE COURT: Let's hear you talk louder.

17 A One time he make drop for Bird, always one time.

18 Q The person in Government Exhibit 113 you saw make a drop
19 for Bird?

20 A Yeah.

21 Q What does that mean?

22 A Like one time he gave it, you know, he make a sale for
23 him.

24 Q What makes you say he was making a sale for Bird?

25 A A guy was looking for Bird and this guy come up and show

1 up and gave him something. He came up.

2 THE COURT: You saw that yourself? Did you see
3 that?

4 THE WITNESS: Yeah.

5 THE COURT: Next question.

6 Q Next person, sir, Government Exhibit 108. How do you
7 recognize him?

8 A He always sometimes in the store, sometime across the
9 street in laundromat.

10 Q What did you see him doing in the store and across the
11 street?

12 A He always hanging out there all the time.

13 Q Next, Government Exhibit 112. Where have you seen him
14 before?

15 A In the store.

16 Q What have you seen him doing?

17 A Sell weed.

18 Q Finally, Government Exhibit 115. Where have you seen him
19 before?

20 A He always in the store. They all in the store.

21 Q And Government Exhibit -- the person in Government
22 Exhibit 115, T, what have you seen him doing in the store?

23 A Selling weed.

24 THE COURT: What was he doing, selling what?

25 THE WITNESS: Selling weed.

1 THE COURT: Selling weed.

2 Q Did you say earlier that you bought marijuana from T?

3 A No.

4 Q Did you buy marijuana from T?

5 A I don't remember that. No.

6 Q Based on what you saw, sir, these people who are up on
7 the board, were they working together or working separately?

8 MR. DINNERSTEIN: Objection, your Honor.

9 THE COURT: Sustained.

10 Q Did any of these people --

11 A They all friends.

12 THE COURT: When I say "sustained" don't answer any
13 question.

14 THE WITNESS: All right.

15 THE COURT: Next question.

16 Q Did you see the people on the board speaking with each
17 other?

18 A Yes.

19 Q Did any of those people buy anything from the store
20 related to their marijuana selling?

21 A Baggies.

22 Q What do you mean by that?

23 A Plastic baggies.

24 Q How big are those baggies?

25 A Smaller than the sandwich bags, very small.

1 Q Where do you keep those in the store?

2 A Underneath the ground, under the ground.

3 Q Under the ground?

4 A Yeah.

5 Q They are hidden in the store?

6 A In the store.

7 Q Of those people up on the board, which ones of them
8 bought baggies?

9 A All of them.

10 Q Did you ever get in trouble for selling those baggies?

11 A One time, yeah.

12 Q What happened?

13 A Arrested.

14 Q What was the result of that arrest?

15 A Dismissed.

16 Q I just want to go back to one thing we talked about
17 earlier. You had told us that you bought marijuana from the
18 defendant, right?

19 A Yes.

20 Q Over what period of time did you buy marijuana from the
21 defendant?

22 A Since I started there.

23 Q From when you started?

24 A Yes.

25 Q When did you stop buying marijuana?

1 A Since I left there.

2 Q When you left the store?

3 A Ahuh.

4 MR. GOLDSMITH: Thank you.

5 No further questions.

6 THE COURT: Mr. Dinnerstein, do you wish to inquire?

7 MR. DINNERSTEIN: Yes, your Honor.

8 CROSS-EXAMINATION

9 BY MR. DINNERSTEIN:

10 Q Sir, my name is Mitch Dinnerstein. I am Mr. Praddy's
11 lawyer, the gentleman who is sitting over there. I'm going to
12 ask you some questions. Okay?

13 A Sure.

14 Q Now, sir, is English your first language?

15 A Second.

16 Q What is your first language?

17 A Arabic.

18 Q And you said, sir, that you worked in the store from what
19 period of time to what other period of time?

20 A 2008.

21 Q 2008?

22 A Yeah.

23 Q Just in 2008 you worked in the store?

24 A No, 2009.

25 Q You said something on direct examination that you

1 traveled somewhere; is that correct?

2 A To Yemen.

3 Q When did you travel to Yemen?

4 A August -- I think August, August '09 -- August '08 till
5 August -- in June 2009. Then I start working there in 2009.

6 Q When did you stop working in the store?

7 A The last -- the end of the year, 2009.

8 Q And when did you start working in the store?

9 A 2008.

10 Q Do you know about what month it was that you worked in
11 the store?

12 A Not sure what month. August, I guess.

13 Q It was what?

14 A I think it was August.

15 Q But August I thought is when you went to Yemen.

16 A That's when I start, you know.

17 Q Well, from August of 2008 to February of 2009 you were in
18 Yemen, right?

19 A Yes.

20 Q So the question I asked is when did you start working in
21 the store?

22 A Early in 2008.

23 Q But do you know about what month it was?

24 A No.

25 Q Now, prior to 2008 you worked in other stores; is that

1 correct?

2 A Before 2008, yeah.

3 Q You worked in a different store?

4 A Different store.

5 Q After you left in November of 2009 you went to work in a
6 different store in Queens; is that correct?

7 A When I left there.

8 Q You said you worked seven days a week; is that correct?

9 A Yeah.

10 Q You worked -- what was your shift?

11 A I work 12 to 12.

12 Q So that would be 12 --

13 A 12:00 noon.

14 Q 12:00 noon to 12:00 midnight?

15 A Yeah.

16 Q You worked seven days a week, right?

17 A Seven days.

18 Q And you say now that you worked -- that you worked in
19 Queens; is that correct?

20 A Right.

21 Q And did there come a time that you saw Mr. Praddy at the
22 store in Queens?

23 A Yeah.

24 Q And when was that?

25 A What?

1 Q When was that that you saw him?

2 A What is that?

3 Q When did you see him?

4 A I don't remember what day. I saw him when I left.

5 Q What neighborhood is that store in?

6 A 111 Church -- 111 Jamaica Avenue, I mean.

7 Q What neighborhood, sir?

8 A Jamaica Avenue, Queens.

9 Q Now, were you surprised that you saw Mr. Praddy in the
10 store in Queens?

11 A He was there.

12 Q You hadn't seen him in Queens before that time; is that
13 correct?

14 A No.

15 Q Did he tell you anything about why he was in Queens?

16 A He say --

17 MR. GOLDSMITH: Objection as to what he said.

18 MR. DINNERSTEIN: It doesn't go to the truth of it.
19 It's simply what he said.

20 MR. GOLDSMITH: What else could it possibly go
21 toward?

22 THE COURT: Sustained.

23 Q Did he tell you he was taking a test?

24 MR. GOLDSMITH: Objection.

25 THE COURT: Sustained.

1 Q Now, you said, sir, that you bought marijuana from
2 Anthony Praddy; is that correct?

3 A From Bird, yeah.

4 Q You call him Bird; is that correct?

5 A Yes.

6 Q When you bought marijuana from him did you telephone him,
7 did you have his phone number?

8 A Yes. I used to have his number, yeah.

9 Q What?

10 A I used to have the number.

11 Q You would call him and he would bring the marijuana to
12 the store; is that correct?

13 A Yes.

14 Q And then he would sell you about a quarter of a bag or a
15 quarter of an ounce of marijuana; is that correct?

16 A Yeah.

17 Q Now, there was never a time that you saw him in the store
18 and you just asked him, Do you have any marijuana and he just
19 handed it to you; is that correct?

20 A I called him and he came.

21 Q You would always call him, right?

22 A Yeah.

23 Q And when you would call him, he would bring the marijuana
24 to the store, he would deliver it; is that correct?

25 A Yeah.

1 Q Do you have a delivery service at the store, do you know?

2 A No.

3 Q But he would deliver the marijuana from wherever he got
4 it from to you; is that correct?

5 A Yeah.

6 Q Now, how many times did he deliver marijuana to you over
7 the year, year and a half that you were working at that store?

8 A Almost every day.

9 Q He would deliver it almost every day?

10 A Three, four times a day.

11 Q Three or four times a day he would deliver marijuana to
12 you?

13 A A week. Excuse me, it was a week.

14 Q Did you get marijuana from other people other than Bird?

15 A No.

16 Q You say other people were selling marijuana in front of
17 the store, right, or by the store?

18 A Inside the store.

19 Q What?

20 A Inside the store.

21 Q It wasn't Bird who sold marijuana inside the store, was
22 it?

23 A Yeah.

24 Q He sold marijuana inside the store?

25 A Yeah.

1 Q Why, sir, if he was selling marijuana inside the store
2 did you have to call him each time?

3 A When they call him, he made meet them in the store. He
4 made the sale inside the store.

5 Q He made the sale inside the store because after you
6 called him he brought the marijuana from wherever he got it
7 from to the store to give you; is that correct?

8 A Yes.

9 Q Were other people just simply selling marijuana that they
10 had on their person around the store?

11 A Yeah, in the store.

12 Q Do you understand the question I'm asking?

13 A Yeah.

14 Q It wasn't Bird who sold marijuana like that, it was other
15 people; is that correct?

16 A Four guys that sell marijuana in the store. He's one of
17 them.

18 Q He sold marijuana to you inside the store, right?

19 A Not only to me. To customers too.

20 Q How often would he do that?

21 A I seen him there almost every day.

22 Q He did that every day?

23 A Yeah.

24 Q In 2008?

25 A 2008.

1 Q You're sure about that, right?

2 A Yeah.

3 Q And how much money would he make selling this marijuana
4 inside the store?

5 A No idea.

6 Q Was it a lot?

7 A I don't know.

8 Q Now, have you ever had any run-ins or difficult times
9 with Anthony?

10 A No.

11 Q Did you ever have any run-ins with other people?

12 A No.

13 Q Do you know a person by the name of Devon?

14 A No.

15 Q Let me show you a photograph. Have you ever seen this
16 person inside the store?

17 A No.

18 Q Never?

19 A No.

20 Q That would be Government Exhibit 109.

21 You said you did see T inside the store; is that
22 correct?

23 A Yeah, I seen T.

24 Q And did you ever have any run-ins with T?

25 A No.

- 1 Q Who were the other people who sold marijuana?
- 2 A The pictures.
- 3 Q People on the picture. Only the people on the picture?
- 4 A Yeah, that's what I remember, yeah.
- 5 Q So then T sold marijuana inside the store, right?
- 6 A Ahuh.
- 7 Q And you say Lindsey sold marijuana inside the store?
- 8 A Who?
- 9 Q Lindsey -- I'm sorry. This person?
- 10 A Yes.
- 11 Q He sold marijuana?
- 12 A Yeah.
- 13 Q Do you know about how tall that person is?
- 14 A I think five-six.
- 15 Q Five-six.
- 16 A I give him.
- 17 Q Now, the person in the middle, the one with the beard,
- 18 how often would he sell marijuana?
- 19 A He always -- I mean, he always stand in the laundromat,
- 20 but sometimes he comes to the store.
- 21 Q How do you know he was in the laundromat?
- 22 A It's across the street by me.
- 23 Q You were able to see him in the laundromat?
- 24 A Yeah.
- 25 Q From the store you could see the laundromat?

1 A Yeah.

2 Q And the person next to him, the one that isn't in color,
3 do you see that on the board?

4 A Yeah.

5 Q You said on one occasion he brought marijuana to you; is
6 that correct?

7 A Not to me. To a customer.

8 Q He brought marijuana to somebody else?

9 A Yeah.

10 Q And you were there when that happened?

11 A Yeah.

12 Q How much money did he bring, do you know?

13 A I don't know. I seen him with marijuana.

14 Q Do you know whether it was a small amount or a large
15 amount?

16 A Small amount.

17 Q And a small amount would be like a quarter of an ounce or
18 something?

19 A Less than that.

20 Q What?

21 A Less than that.

22 Q Less than that.

23 A Yeah.

24 Q That was the only time you saw that person in the store?

25 A No. He always come in the store.

1 Q He would meet a customer in the store?

2 A Yes.

3 Q Would Bird also be a customer in the store; he would buy
4 things?

5 A Yeah.

6 Q He would buy things on a regular basis; is that correct?

7 A Yes.

8 Q He would go shopping?

9 A Yeah.

10 Q He would pay you money for the things that he bought?

11 A Sure.

12 Q And you never had any problems with him?

13 A No.

14 MR. DINNERSTEIN: Thank you very much.

15 THE COURT: Anything further, Mr. Goldsmith?

16 MR. GOLDSMITH: No, your Honor.

17 THE COURT: You may step down.

18 Thank you very much.

19 (Witness excused.)

20 THE COURT: Next witness.

21 MR. GOLDSMITH: The government calls Andre Thomas.

22 THE CLERK: Please state your name.

23 THE WITNESS: Andre Thomas, A-N-D-R-E T-H-O-M-A-S.

24 (Continued next page.)

25

1 ANDRE THOMAS,

2 called as a witness, having been first duly sworn,

3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. GOLDSMITH:

6 Q How old are you, Mr. Thomas?

7 A I'm 34-years-old.

8 Q What do you do for having?

9 A I am presently unemployed.

10 Q When was the last time you worked?

11 A About four years ago.

12 Q What were you doing do at that time?

13 A I was doing construction.

14 Q Were you doing anything else to make money?

15 A Yes, I was also hustling.

16 Q What do you mean by hustling?

17 A I was selling marijuana.

18 Q How long did you spend selling marijuana?

19 A 1999 to roughly -- roughly '99 to 2000, August, until
20 about '06, '07.

21 Q Have you ever been in a fight, Mr. Thomas?

22 A Yes.

23 Q What happened?

24 A Altercation with my nephew. I was younger. We had a
25 fight over football.

1 Q What is the age difference between you and your nephew?

2 A About a year and a half or two.

3 Q At some point, Mr. Thomas, did you learn that the FBI was
4 looking for you?

5 A Yes.

6 Q When was that?

7 A Several times they was looking for me.

8 Q When were they looking for you?

9 A Sometime in April of this month.

10 Q How did you learn they were looking for you?

11 A My mother told me.

12 Q What did you do?

13 A I first didn't call them and then my mother suggest I
14 should call them again, give them a call. So I called them.

15 Q How did your know they were looking for you?

16 A An Agent Robert Foy came to my house and gave her several
17 cards for me to call him back.

18 Q Business cards?

19 A Yes.

20 Q Did you eventually call him back?

21 A Yes, I did.

22 Q Since you did that have you pled guilty to a federal
23 crime related to your marijuana selling?

24 A Yes, I have.

25 Q What crime was that?

1 A Narcotics sales of marijuana, conspiracy, I believe.

2 Q How much marijuana did you plead guilty to selling?

3 A A thousand kilograms or more.

4 Q The day that you pled guilty to that crime did someone
5 who worked for the court interview you?

6 A Yes, somebody from Pretrial.

7 Q Pretrial?

8 A Yes.

9 Q Did you tell that person anything that wasn't true?

10 A Yes. I told him that I had stopped smoking weed for two
11 months.

12 Q When before that interview in fact was the last time you
13 had smoked marijuana?

14 A After the interview, I would say couple of hours -- about
15 a day.

16 Q Let me ask that again, Mr. Thomas. When before that
17 interview was the last time you had smoked marijuana?

18 A After my initial interview with them, so I would say
19 about a week, ten days ago.

20 Q Your initial interview with who?

21 A With Rob, Agent Foy.

22 Q So after that first time that Agent Foy spoke with you,
23 you smoked marijuana; is that right?

24 A Yes.

25 Q And a few days after that you spoke to Pretrial?

1 A Yes.

2 Q And why did you tell them that you had not smoked
3 marijuana in two months when you in fact had only smoked a few
4 days earlier?

5 A Prior to that I did stop smoking weed for two months. I
6 was looking for a job, but after my interview with Robert Foy
7 I got nervous and I rolled up weed and I smoked.

8 Q Why didn't you tell that to the person that interviewed
9 you in court?

10 A It was an honest mistake.

11 Q When did you realize you had made that mistake?

12 A I would say right after the interview.

13 Q What did you do when you realized?

14 A I told the Agent Robert Foy.

15 Q Going back to the crime that you plead guilty to, Mr.
16 Thomas. Have you been sentenced for that crime?

17 A Yes, I have.

18 Q Excuse me?

19 A Yes.

20 Q You have been sentenced?

21 A No, I've pled guilty.

22 Q Have you been sentenced?

23 A No, I have not.

24 Q What is the maximum sentence you could receive for that
25 crime?

1 A Life.

2 Q And under the statute what is the minimum sentence you
3 could receive?

4 A Ten years.

5 Q Do you have an agreement with the government related to
6 your pleading guilty?

7 A Yes, I do.

8 MR. GOLDSMITH: May I approach, your Honor?

9 THE COURT: You may.

10 Q Mr. Thomas, showing you Government Exhibit -- what has
11 been marked as Government Exhibit 479.

12 Do you recognize that?

13 A Yes. It's my cooperation agreement.

14 Q It is the agreement related to your guilty plea?

15 A Yes.

16 MR. GOLDSMITH: The government offers Government
17 Exhibit 479.

18 THE COURT: No objection. In evidence.

19 (So marked.)

20 Q Mr. Thomas, what did you agree to do in this agreement?

21 A Tell the truth of what I did in the past and the
22 knowledge I know of.

23 Q The knowledge you know of related to what?

24 A The people I associated with.

25 Q What did the government agree to do in return?

1 A Write the judge a 5K letter.

2 Q What is a 5K letter?

3 A To my knowledge, a letter stating that I was helpful, I
4 was helpful telling the truth about what I did in my past.

5 Q Does the letter include anything else?

6 A Basically everything from today, from the past until
7 present.

8 Q What does that letter do?

9 A Basically tell the judge about -- a little bit about
10 myself, my past crimes, the help I provided, if I was able to
11 provide any at all.

12 Q What does that letter allow the judge to do?

13 A To my knowledge, to take away the ten years and basically
14 sentence me from zero to life.

15 Q The judge can sentence you anywhere from zero to life
16 instead of ten years to life; is that what you understand?

17 A Yes, I do.

18 Q Is the government necessarily going to write that letter
19 for you?

20 A If I lie, no, if I tell the truth everything I did, and
21 tell the truth today, they should write the letter, to my
22 knowledge.

23 Q As you understand it, does the result of this trial
24 affect whether the government will write that letter?

25 A To my knowledge, no.

1 Q Is the judge required to give you a lower sentence
2 because of the letter?

3 A No, he's not.

4 Q Has anyone promised you what your sentence will be?

5 A No.

6 Q Have you ever been arrested for selling marijuana, Mr.
7 Thomas?

8 A Yes, I have.

9 Q About how many times?

10 A Over a dozen.

11 Q On the times that you were arrested were you in fact
12 selling marijuana?

13 A Yes.

14 Q Did you spend some time in jail for those arrests?

15 A Yes.

16 Q About how much?

17 A It's varied.

18 Q What was the range?

19 A Some were days, some were weeks, some were months.

20 Q Have you ever been arrested for anything else?

21 A No, I have not.

22 Q When did you start selling marijuana?

23 A 1999 to 2000, early.

24 Q Around that time were you selling on your own or with
25 other people?

1 A Other people.

2 Q How did you get involved with selling marijuana?

3 A A friend of mine named Joshua Thomas introduced me to a
4 gentleman named Bob and during the time I was -- just lost my
5 recent job and I had children so I had to make money for that,
6 so --

7 Q What did you do after meeting Bob?

8 A Introduced myself. We talked a little bit. After a
9 while he gave me work.

10 Q You say work, what do you mean by that?

11 A Marijuana.

12 Q Did you sell that marijuana?

13 A Yes, I did.

14 Q Where did you do that?

15 A On Church Avenue in Brooklyn.

16 Q Where exactly did you sell it?

17 A In front of a candy store in Brooklyn on Church Avenue,
18 and a laundromat also on Church Avenue in Brooklyn.

19 Q Showing you on the screen here Government Exhibit 472,
20 which is in evidence.

21 What is shown in that photo sir?

22 A The nail salon, the candy store and the grocery shop.

23 Q That is the candy store you were referring to?

24 A Yes, behind the tree.

25 Q How would it work when you sold marijuana for Bob?

1 A I take my kids to school. I would wake up, take my kids
2 to school. About 8:30 or so I would meet with Bob on Church
3 Avenue.

4 Q What happened when you met up with Bob?

5 A Various things. I'd either get my work from him or get
6 it from the place he stash it in the area.

7 Q Then what did you do?

8 A I would sell it.

9 Q How long did you spend selling it each day?

10 A Anywhere from 8:30 till about quarter to three, or -- up
11 to 3 o'clock itself.

12 Q How much money did you sell each day, about?

13 A It varied from 500 to a thousand.

14 Q Five hundred, what did you mean?

15 A Dollars.

16 Q Did you ever sell more than a thousand dollars in a day?

17 A Yes, I've sold 1,500 once or twice.

18 Q And how much marijuana is \$500 worth?

19 A A quarter pound.

20 Q How large was each sale that you made?

21 A Five and ten dollars.

22 Q Five and ten dollars?

23 A Yes.

24 Q What if a customer wanted to buy more?

25 A I would tell him to go find Bob or I find Bob myself and

1 tell him.

2 Q How did you get paid?

3 A I got paid twenty dollars of every hundred dollar package
4 I sold.

5 Q At that time when you first started were there other
6 people working with Bob?

7 A Yes.

8 Q Who were some of the those people?

9 A Myself, Bob, Kion, Joe, Josh off and on, Charles, and
10 other people, various people.

11 Q I show you, Mr. Thomas, some photos that are in evidence.
12 Showing you Government Exhibit 102. Do you recognize this
13 person?

14 A Yes, that's Bob.

15 Q Government Exhibit 107?

16 A That's Josh.

17 Q Government Exhibit 100?

18 A That's Yellow.

19 Q Do you know any other names for Yellow?

20 A Kion.

21 Q Anything else?

22 A Yeah, Yellow, Kion -- a couple of names, but mostly I
23 know him as Kion and Yellow. Rabbit.

24 Q Rabbit?

25 A Yes.

1 Q Government Exhibit 106?

2 A Charles Mack.

3 Q Finally, Mr. Thomas, Government Exhibit 104?

4 A That's Turtle.

5 Q Who is Turtle?

6 A A guy that used to work with us before he passed away.

7 Q Also, Mr. Thomas, I don't think you said, how do you know
8 Kion?

9 A I know Kion from around the way. Also he gave me weed.
10 And also Joe.

11 Q Let me see if I can find Joe, Mr. Thomas.

12 Government Exhibit 101.

13 A Yeah, that's Joe.

14 Q What did these people call you, Mr. Thomas?

15 A Dre or Fat Boy.

16 Q Have you ever been slim, Mr. Thomas?

17 A Never.

18 Q When you were selling marijuana did you do anything to
19 avoid getting arrested?

20 A Yes.

21 Q What did you do?

22 A I got people looking out. They would tell us if they saw
23 undercover cars, or cars in the area that looked suspicious.

24 Q The people looking out, what did they do in order to do
25 that?

1 A They would ride around the blocks, I would say,
2 six-block -- six block radius looking for basically, like I
3 say, undercover cars, stuff like that.

4 Q You mean they would ride around in cars?

5 A No, bikes.

6 Q Did you pay these people who did that?

7 A Some, yes.

8 Q How did you pay them?

9 A Either in weed or I paid them in cash.

10 Q Were there some people who did that who you did not pay?

11 A Yes.

12 Q How old were these people who rode around on the bikes?

13 A It varied from young teenagers.

14 Q Who were some of the people who you did not pay who did
15 that?

16 A Lindsey, Ant, a gentleman named Clarence.

17 Q Do you see any of the those people in the courtroom
18 today?

19 A Yes. The defendant.

20 Q When you say the defendant, could you tell us what he's
21 wearing, please.

22 A Purple.

23 Q Who is that?

24 A That's Anthony.

25 Q Do you know any other names for him?

1 A Little Ant or Birdman.

2 MR. GOLDSMITH: May the record reflect the witness
3 identified the defendant?

4 THE COURT: It will.

5 Q Showing you Government Exhibit 111. Who is this person?

6 A Ant.

7 Q Sorry?

8 A That's Anthony.

9 Q Government Exhibit 112?

10 A That's Lindsey.

11 Q Why didn't you pay them, Mr. Thomas?

12 A 'Cause I knew them. They was from the neighborhood.

13 Q When you say you knew them, what do you mean?

14 A I know their families and they cool with people in the
15 area on the block that's on the board.

16 Q They are cool with the people in the area on the block
17 that's on the board, is that what you said?

18 A Yes.

19 Q Do you know if there's any relationship between Lindsey
20 and the defendant?

21 A To my knowledge, I believe they are cousins.

22 Q Did you ever see them together?

23 A Yes.

24 Q How often would you see them together?

25 A You saw Anthony you saw Lindsey; if you saw Lindsey you

1 would see Anthony, I would say three, four times a day, twice
2 a day, give or take. Depending on how long I was outside
3 hustling I would see them.

4 Q I'm sorry?

5 A Depending on how long I was out hustling I would see
6 them.

7 Q Over time did they ever do anything else related to the
8 marijuana business?

9 A Eventually they started selling.

10 Q Selling marijuana?

11 A Yes.

12 Q Did they sell marijuana together?

13 A Yes. One would look out, one would sell; the other would
14 sell, one would look out.

15 Q Based on what you saw, was it usually the defendant being
16 a lookout for Lindsey or Lindsey being a lookout for the
17 defendant or even?

18 A It was more Birdman doing most of the work and Lindsey
19 would watch.

20 Q Birdman is the defendant?

21 A Yes.

22 Q I want to show you a couple of other pictures, Mr.
23 Thomas. Government Exhibit 115. Do you recognize this
24 person?

25 A Yes. That's Terror.

1 Q And Government Exhibit 125?

2 A That's Rico.

3 Q How do you know those people, Mr. Thomas?

4 A I know them from the neighborhood.

5 Q You said that at the beginning you received the marijuana
6 from Bob?

7 A Yes.

8 Q Did he disappear from the block at some point?

9 A After awhile, yes.

10 Q What happened after that?

11 A I would get my marijuana from Kion.

12 Q Is that Kion on the board?

13 A Yes, the third one.

14 Q Did you ever get marijuana from anyone else after Bob
15 left?

16 A I received weed from Bob, Kion; I got weed from Joe and
17 also got weed from Rico.

18 Q Did you ever go anywhere in particular to pick up
19 marijuana from any of those people?

20 A After Bob had left, after Bob was gone, basically I would
21 go to Yellow's house with Kion, I would go in the basement.

22 Q To get marijuana?

23 A Yes.

24 Q Where was his house, approximately?

25 A I don't know the exact house, but I know it's behind a

1 big tree on the left-hand side of Raleigh Place.

2 Q Did other people who didn't work for or with Bob try to
3 sell marijuana in the area?

4 A Yes.

5 Q What happened when they did that?

6 A They were told to leave.

7 Q Who would tell them to leave?

8 A It varied from different people, including myself.

9 Q And if they didn't want to leave?

10 A They were either beat up, robbed, it varied. It depended
11 on the person.

12 Q You said that you did that once?

13 A Yes.

14 Q Tell us about that.

15 A I was starting hustling early, early 2000, me and Turtle
16 one morning. I guy come outside, he want to sell some weed.
17 We told him to leave. He didn't want to leave, so we -- I
18 told him he had to get out of there because it's going to end
19 up bad for him.

20 He started to walk away and he said some shit to
21 Turtle, so I ran behind him going on 31st, 31st and Snyder. I
22 ran behind Turtle and I pointed to him and when I got up to
23 him he was digging the guy down, he was basically sticking his
24 hands in his pockets taking his money and taking the weed out
25 of his pockets.

1 Q What did you do?

2 A I stood there, stood by him basically. Since I'm bigger
3 than the guy, bigger than Turtle, I used my size to intimidate
4 him so he didn't really fight back with him.

5 Q Did you ever see any of the other people on the board run
6 anyone off the block?

7 A Yes. Bob, Kion, Joe, Turtle, Torrel, Rico, Anthony.

8 Q How many times did you see Anthony run someone off the
9 block?

10 A Not often.

11 Q Approximately how many times?

12 A Twice, three times, if that.

13 Q What were you doing when you saw that happen?

14 A I was usually hustling.

15 Q And there was someone else selling marijuana there as
16 well?

17 A Yes.

18 Q Did you try to run this person off the block?

19 A No, I did not.

20 Q Why not?

21 A Because at that point the point when I was hustling, I
22 was hustling so much, sometimes I didn't feel comfortable so I
23 took people outside with me.

24 THE COURT: Who do you sell this weed to, do you
25 sell them amongst each other, or people who come from outside

1 the community to buy it?

2 THE WITNESS: It varied.

3 THE COURT: People come from all over?

4 THE WITNESS: Yes. I had teachers.

5 THE COURT: Teachers, customers?

6 THE WITNESS: Yes.

7 THE COURT: College kids?

8 THE WITNESS: It varied, like I said.

9 THE COURT: Whites, blacks, Hispanics?

10 THE WITNESS: No different.

11 THE COURT: Next question.

12 Q Sir, the times that you saw the defendant try to run
13 someone off the block, did the people that he was running off
14 the block protest?

15 A If they was outside with me, yes, people complained.
16 They would complain about --

17 Q What did they say?

18 A They were outside hustling, they knew that I knew they
19 was outside hustling with me.

20 Q I'm sorry. You said a couple of things there. What did
21 the people say?

22 A That they knew that -- that I knew they was outside
23 hustling.

24 Q They would say, Dre knows I'm here?

25 A Yes.

1 Q What did the defendant say in response?

2 A That I do not run the block.

3 Q Dre doesn't run the block?

4 A Dre does not run the block.

5 Q What did the people do then?

6 A Sometimes they would beef, complain more, but after
7 awhile, if I allowed them to be outside I would ask them to
8 leave.

9 Q Why did you ask him this to leave?

10 A After a point, I was selling so much marijuana at that
11 point there was no point in having extra violence or extra
12 anything on the block during that time of the day.

13 Q Did you ever see any of those people on the board
14 carrying a gun?

15 A Yes. Bob, and Kion, and Joe.

16 Q Did you carry a gun?

17 A No, I did not.

18 Q Why not?

19 A I'm six-one, I'm 200 some odd pounds.

20 Q You didn't think you needed one?

21 A No.

22 Q Did you ever see anybody on the board shoot a gun?

23 A Yes. Bob and Terror.

24 Q When did you see Bob shoot a gun?

25 A New Year's Eve.

1 Q When did you see Terror shoot a gun?

2 A When we outside hustling and Terror came to the corner of
3 Raleigh Place and shot two shots in the air.

4 Q Did you ever have any problems with any of the other
5 people in the group?

6 A Yes. Bob, Kion, Joe, Terror and RICO.

7 Q What caused you to have a problem with Joe?

8 A During the time I was selling weed, after awhile I got
9 comfortable and I would short packages.

10 Q What does that mean?

11 A I would get twenty dollars, I wouldn't give them the
12 whole twenty dollars. I would take 25, 30 dollars for myself,
13 give him 70, sometimes 60.

14 Q How would you explain that?

15 A The police was on the block. The block was hot.

16 Q So, you were saying that you had problem with Joe?

17 A Yes.

18 Q What happened with Joe?

19 A Like I said, I would short the packages. After awhile he
20 would have problems with that.

21 Q What did Joe do?

22 A One day I was on the corner of 32nd in a vacant parking
23 lot next to a house -- a driveway I should say. I was back
24 there with my friend Josh. Joe came back and complained, I
25 know you selling other people weed. I know you're shorting.

1 Q When you say selling other people weed --

2 A I would take other packages from other people.

3 Q What did you mean other people?

4 A Like I say, I getting paid twenty dollars for every
5 hundred. Twenty dollars of every hundred, no matter how much
6 weed I was selling wasn't enough, basically it wasn't enough
7 to support me and myself and my two children at the time, so.

8 Q Where did you get this other marijuana?

9 A Sometimes off of Rico. I got it from other people.

10 Q But other than Rico, not the people on the board, is that
11 what you're saying?

12 A Yes.

13 Q So Joe said that he had heard you were selling other
14 people's marijuana. Then what happened?

15 A Basically he said to me, I know you're selling somebody
16 else's weed. At that time Joe is about maybe a 130 pounds, I
17 outweighed Joe by maybe a hundred pounds easy.

18 So at that time he pulled out a gun on me, a .45,
19 and pointed it at me and I kind of chuckled at him, Are you
20 going to shoot me in the backyard here?

21 Q Then what happened?

22 A Josh also said, You know, you can't do this. Like are
23 you going to shoot him over some weed that he can fix back.
24 Joe in turn walked out, walked out on the driveway and went
25 about his business.

1 Q Josh said you could fix it back?

2 A Yeah.

3 Q What does that mean?

4 A Like I said, I sold a certain amount of weed over my
5 time, so me messing up a hundred dollars here or 150 there, I
6 could fix it back by the next morning.

7 Q You could pay the money back, is that what you mean?

8 A Yes.

9 Q You also said you had problems with Kion?

10 A Yes.

11 Q What caused you to have a problem with Kion?

12 A Basically the same thing, me coming up short, selling
13 other people's weed on the block.

14 Q How often, how many times did that happen with Kion, that
15 you had weed problems with Kion?

16 A I would say three times, two or three times.

17 Q What happened on those occasions?

18 A One incident we was on Church Avenue, I was in front of
19 the store. He heard I was selling weed for somebody else.
20 Bob was outside in front of Couchery and he attacked me with a
21 pipe, a metal rebar, something like that.

22 Q When you say he attacked you, what did he do?

23 A He told me to get off the block, that he would hit me
24 with a pipe.

25 Q You said you had problems with him on other occasion?

1 A Yes.

2 Q What happened then?

3 A After that incident, I was allowed to come back on the
4 block to sell more marijuana for the morning time. I
5 basically did the same thing again, came up short, sold other
6 people's weed. And he threatened me, with me and my child and
7 a young lady I was with one day sometime in April.

8 Q So you were with a young lady and your child, and what
9 happened?

10 A He rolled up on me --

11 Q Who is he?

12 A Kion. He rolled up on me at the time and asked me for
13 the money I owed him. I told him I didn't have the money. He
14 in turn kind of reached for his waist and I chuckled at him,
15 it's broad daylight, not nighttime. You going to try to shoot
16 me in broad daylight? He got mad and he hopped in the car and
17 drove away.

18 Q The any other run-ins with Kion?

19 A Yes. One day I was inside the candy store. Basically
20 the same thing, coming up short, messing the money up, me
21 selling weed for other people. He and Terror came in the
22 store and ushered me out to around Raleigh Place to basically,
23 I don't know, shoot me, do something to me.

24 Q What happened?

25 A They came in the store, I was selling marijuana for

1 somebody else at the present moment. They knew about it, they
2 saw it. Terror ushered me out the store, you know, pushed me,
3 pushed me, he say, Come on, we want to talk to you. He
4 ushered me around the corner to Raleigh Place and after awhile
5 I say, I'm not going any further, if you got something to tell
6 me, tell me.

7 Q What did they say?

8 A Nothing. Basically, Kion reached for his waist. I did
9 the same thing I usually do, I chuckled at him because it's
10 broad daylight.

11 Q Then what happened?

12 A Then they -- Kion reached for his waist. They saw some
13 other people walking past so then he turned around and walked
14 away.

15 Q Is Kion older than you or younger than you?

16 A Younger.

17 Q By about how much do you think?

18 A I would say no more than five, if that.

19 Q Five what?

20 A Five years.

21 Q And Terror, is he older than you or younger than you?

22 A Younger.

23 Q How much?

24 A By I would say seven, eight years.

25 Q You said you had a problem with Rico?

1 A Yes.

2 Q What problem did you have with Rico?

3 A One day I overstayed my usual time which is 3 o'clock.
4 Rico came up to do his shift, which is at seven. I basically
5 joked with him -- I knew him from my family and so forth so I
6 figured we friends, I can bullshit with him and I say, I'm
7 not leaving yet, I want to finish what I have left. He didn't
8 care for me to say that I was not leaving so he told me I be
9 right back and he left and came back and he stabbed me in my
10 leg.

11 Q At a certain point, Mr. Thomas, did you stop selling
12 marijuana with the people on the board?

13 A Yes.

14 Q What was that about?

15 A There was several times. Sometimes because of my
16 transgressions, me selling people's weed, he told me I can't
17 come back. I basically stopped working for them about two
18 weeks there, no more than a month I stopped working for them.

19 Q Then you eventually -- when was the last time you stopped
20 working for them?

21 A '07.

22 Q What did you do after that to make money?

23 A At one point I was doing construction with a gentleman,
24 but then it was seasonal and I took up trying to sell weed for
25 myself.

1 Q How long did you sell marijuana for yourself?

2 A About two weeks.

3 Q Mr. Thomas, I put on the screen there Government
4 Exhibit 110. Do you recognize that person?

5 A Yes.

6 Q Do you know a name for that person?

7 A No, I do not.

8 Q How do you recognize him?

9 A From the barbershop.

10 Q You say "the barbershop," what do you mean?

11 A There used to be a barbershop named Stylz on Church
12 Avenue and on 46th, I believe.

13 Q You recognize him from there?

14 A Yes.

15 Q What does that mean, what was his connection to that
16 barbershop?

17 A Whenever I was outside early in the mornings, I would see
18 him about maybe 12, 1 o'clock in the afternoon. He would be
19 in the barbershop. We talked, we spoke.

20 Q Did any of your marijuana customers ever say anything to
21 you about him?

22 A Yes.

23 Q What did they say?

24 A One or two customers came to me and told me how they got
25 some weed from the gentleman inside the barbershop. There was

1 a lot of people in the barbershop, so I asked who, Who did you
2 get the weed from? He said at the time the gentleman wore
3 sunglasses, so that's how I recognized it was him.

4 Q Recognized it was who?

5 A This gentleman on the screen.

6 Q Government Exhibit 110?

7 A Yes.

8 Q And what did your customer say about the marijuana they
9 had gotten from him?

10 A That it was bad.

11 Q What did you say?

12 A I told him basically find Bob and complain.

13 Q What happened after that?

14 A A couple of weeks later after that I heard the gentleman
15 was killed.

16 Q Do you know how he was killed? Did you hear how he was
17 killed?

18 A Yes. I heard he was shot.

19 Q Without telling us what you heard, did you hear who shot
20 him?

21 A Yes. Unfortunately, yes.

22 MR. DINNERSTEIN: Objection, your Honor.

23 THE COURT: He heard he was shot. He answered that
24 question. Overruled.

25 Q Did you ever speak to any of the people on the board,

1 Mr. Thomas, about this person being shot?

2 A Yes.

3 Q Who did you speak to?

4 A I guess I spoke to everybody, Josh, Bob --

5 MR. DINNERSTEIN: Objection, your Honor.

6 THE COURT: You spoke to them. He didn't say what
7 he said. Objection overruled. Ask who you spoke to.

8 A I spoke to Bob, spoke to Kion, I spoke to Joe. I spoke
9 to various people on the board.

10 Q Any of the other people besides those who you spoke to on
11 the board?

12 A Yes. I even spoke to Anthony.

13 Q When did you speak to the defendant about it?

14 A Say no more than three days, four days tops after the
15 incident happened.

16 Q Where did you have this conversation?

17 A In the candy store.

18 Q What happened?

19 A I was outside hustling like I usually am. He came in the
20 early morning, walked past me. I asked him what happened. I
21 heard what happened, what's going on? He in turn tells me,
22 You heard what happened, and basically he brushed past me and
23 went to the back of the candy store.

24 Q What do you mean by the back of the candy store?

25 A The candy store is basically sectioned off by a thick

1 Plexiglass wall that goes -- you have a door to get back to
2 the cashier.

3 Q The cash register is on the other side of the Plexiglass?

4 A Yes.

5 Q What did you do after the defendant went behind the
6 Plexiglass?

7 A I was not really satisfied with -- you know, I wanted a
8 little bit more information. He basically brushed it off, so
9 I put my head inside the glass window they had there, the
10 partition.

11 Q What did you see?

12 A I saw Anthony with a .38 around his waist.

13 Q You say a .38; what's that?

14 A A handgun.

15 Q What happened after that?

16 A I pulled my head back out. I continued to hustle. I had
17 customers in the store with me. About five or ten minutes
18 later he walked past me. I stepped out the store. I said if
19 there was something else. He shrugged his shoulders said,
20 basically, you heard what you heard, what do you want me to
21 do? And he kept on moving.

22 Q What did you understand that to mean?

23 A In my life-style, when somebody said you heard what you
24 heard that means automatically that person did it.

25 Q In the time period leading up to that conversation with

1 the defendant, how often did you see the defendant?

2 A Like I said, it was a week, three or four times a day.

3 Q After that conversation how often did you see him?

4 A Probably once, twice after that conversation, if that.

5 Q How long a period of time did you see him once or twice,
6 if that?

7 A I was locked up, so I would say after I came home,
8 anywhere between once, like a month, if I seen him at all.

9 Q You mentioned you were locked up. Do you mean there was
10 a period of about a month when you were not locked up and you
11 did not see him, is that what you're saying?

12 A Yes.

13 Q And after a period of time did you start to see him again
14 regularly?

15 A Yes.

16 Q What was he doing when you saw him again?

17 A Driving a Yellow cab -- driving a Dollar cab.

18 Q Doing what?

19 A Picking people up, people that wanted fares, they didn't
20 want to wait for the bus, he would pick them up and drive them
21 back and forth.

22 (Continued next page)

23

24

25

1 BY MR. GOLDSMITH:

2 Q Was he doing anything else that you saw?

3 A Yes.

4 Q What was he doing?

5 A He also selling weed.

6 Q How was he selling marijuana at that time?

7 A Basically the same way. He would drive; he would come
8 and make deliveries.

9 Q He would make deliveries?

10 A Yes.

11 Q Had he made deliveries before this person in Government's
12 Exhibit 110 was killed?

13 A He was not.

14 Q Before this person was killed, did the defendant have a
15 particular a location where he sold?

16 A He was between Couchery Ant candy store.

17 Q Couchery, what is that?

18 A It's a store on Church Avenue.

19 Q Which block?

20 A On Church Avenue.

21 Q Between what streets?

22 A Between Fairview and Raleigh Place.

23 Q Is that the same block as the candy store?

24 A Yes.

25 Q Did the defendant have a particular time that he sold

1 from your observations?

2 A Anything after 5:00 o'clock.

3 Q I'm sorry.

4 A Anything after 5:00 o'clock.

5 Q In the morning or afternoon?

6 A Afternoon.

7 Q What quantities did he typically sell before this person
8 in Exhibit 110 was killed?

9 A He basically sold nickles dimes. Five dollar and ten
10 dollar bags.

11 Q What quantities did he sell after?

12 A Quarters.

13 Q What quantities were you selling after this man was
14 killed?

15 A Nickles and dimes.

16 THE COURT: Did he ever tell you anything about why
17 he was selling larger quantities? Did he ever tell you
18 anything?

19 THE WITNESS: No, he did not.

20 Q Sir, did you look at the defendant any differently after
21 this person in Government's Exhibit 110 was killed?

22 A Yes.

23 Q How?

24 A Basically -- I hate to say -- I gave him more respect,
25 after he shot somebody or stabbed somebody or beat somebody.

1 That's basically how it worked.

2 Q Is there anything in particular that you did as a result
3 of that?

4 A He went from Little Ant to Birdman.

5 Q You mean what people called him changed?

6 A Yes.

7 Q He was not call Little Ant any more?

8 A No.

9 MR. GOLDSMITH: Nothing further, your Honor.

10 THE COURT: Mr. Dinnerstein.

11 CROSS-EXAMINATION

12 BY MR. DINNERSTEIN:

13 Q Mr. Thomas, you didn't live on Raleigh Place, did you?

14 A No, I didn't.

15 Q You lived in a totally different neighborhood, right?

16 A No, I did not.

17 Q You lived in East Flatbush?

18 A Yes, I did.

19 Q How many blocks away from Raleigh Place?

20 A A block.

21 Q How old are you now, sir?

22 A 34.

23 Q What?

24 A 34.

25 Q How tall are you?

1 A Six-one.

2 Q And how much do you weigh?

3 A Right now?

4 Q Yes.

5 A 350.

6 Q Now, sir, you talked a little bit on direct examination
7 about your employment history, is that correct?

8 A Yes.

9 Q Other than working in construction a few years ago,
10 basically, your employment history deals with selling
11 marijuana, is that correct?

12 A No.

13 Q What else did you do?

14 A I work for UPS and Filene's Basement.

15 Q What?

16 A UPS and Filene's Basement.

17 Q When did you do that?

18 A After high school.

19 Q You were 18, 19?

20 A Yes.

21 Q That was about 15 years ago?

22 A Roughly.

23 Q How long did you do those jobs?

24 A UPS I did for almost two years.

25 A Filene's Basement I did going into I would say 2000.

1 Q And 2000 you lost that job and you started selling
2 marijuana on a regular basis, is that correct?

3 A Yes.

4 Q And you started selling marijuana on Church Avenue,
5 right?

6 A Yes.

7 Q Ant person who was your boss is up there on the board, is
8 that correct?

9 A Yes, right behind me, first one.

10 Q That would be Bobby?

11 A Yes.

12 Q Bobby was the person that allowed you, a person who
13 didn't live on Raleigh Place, to sell marijuana in that
14 neighborhood, is that correct?

15 A I did not know if Bob ever lived on Raleigh Place.

16 Q Was Bob the one who was running the location on Church
17 Avenue?

18 A Yes.

19 Q And he was the one who gave you the permission to sell on
20 Church Avenue, is that correct?

21 A Yes.

22 Q You're well aware of fact a Bobby now is a government
23 witness, is that correct?

24 A I've heard it.

25 Q Well, you know exactly that Bobby testified against

1 Anthony, is that correct?

2 MR. GOLDSMITH: Objection, your Honor.

3 THE COURT: Overruled.

4 Q Do you know that?

5 A No, I didn't.

6 Q Do you know that there was a previous proceeding where
7 Bobby testified against Anthony?

8 A No, I did not.

9 Q You don't know what's going on in terms of court
10 proceedings, is that correct?

11 A All I know that Bob testified. I don't know against who.
12 I know he testified.

13 Q And when you say you know that he testified, is it you
14 know because there's talk in the street about what Bobby
15 testified about, right?

16 A Yes.

17 Q And there's talk on the street that Bobby testified
18 against Anthony, is that correct?

19 A I didn't hear that part.

20 Q You didn't hear that he testified against Anthony?

21 A All I heard about at that time was he mentioned my name.

22 Q What?

23 A All I cared about if he mentioned my name.

24 Q So you didn't care about what Bobby was saying?

25 A As long as my name wasn't being called, that's all I

1 cared about.

2 Q Did you learn that Bobby testified against Anthony?

3 A No, I did not.

4 Q And as you're sitting there right now you have no idea
5 that Bobby has testified against Anthony, is that correct?

6 A Yes.

7 Q Did you speak to Bobby -- you know where Bobby is now?

8 A No, I don't.

9 Q You have no idea that he is in jail?

10 A No, I do not.

11 Q Aren't you interested in finding out where the people are
12 to make sure that you don't get yourself in trouble?

13 A At the end of the day, I did what I did. And what they
14 got, they got.

15 Q So, you weren't concerned about Bobby's whereabouts, is
16 that your testimony, sir?

17 A Yes.

18 Q You are concerned about it?

19 A I was not concerned about his whereabouts.

20 Q You would like to know if Bobby is saying bad things
21 about you?

22 A Yes.

23 Q You're actually charged with a narcotics conspiracy, is
24 that correct?

25 A That's what I have been told.

1 Q What?

2 A That's what I was told and that's what was charged with.

3 Q When you were told, you mean you were told by the
4 officer, Agent Foy over here?

5 A No. I was told by the judge himself.

6 Q Agent Foy never told you you were charged with a
7 narcotics conspiracy?

8 A In my world, when somebody says you're charged, that
9 means you are arrested. I was never arrested.

10 Q There was a time, sir, that before you signed this
11 cooperation agreement that Agent Foy went to your house, is
12 that correct?

13 A Yes.

14 Q And that was actually last Saturday, April 16, is that
15 correct?

16 A Yes.

17 Q Prior to April 16 you never talked to anybody about what
18 you claimed you saw seven years before?

19 A As I said before, Agent Foy came to my house more than
20 once. I basically avoided him.

21 Q What?

22 A Agent Foy came to my house more than once and I basically
23 avoided him.

24 Q Understand that, sir. We'll get to that.

25 You say that Mr. Praddy told you that he committed a

1 crime in 2004, is that correct.

2 A I told you I said I came and asked him a question. He
3 basically brushed it off. He gave me a vague answer and
4 brushed me off.

5 Q That was in 2004 seven years before you had this
6 conversation with Agent Foy, is that correct?

7 A It's 2004, 2003. I can't be honest and tell you yes or
8 no.

9 Q It was years and years before?

10 A Yes.

11 Q You learned, did you not, that there was court
12 proceedings where your friend Bobby was testifying regarding
13 what happened back in 2004?

14 A To say friend is a stretch. Yes. I knew about Bobby and
15 testifying.

16 Q You knew about Bobby and testifying?

17 A I knew about Bobby and testifying. I heard my name being
18 called, yes.

19 Q You knew that Bobby was testifying against Anthony, is
20 that correct?

21 A Once again I said no.

22 Q You did not know that?

23 A No, I don't.

24 Q On April 16, last Saturday, a week ago, Agent Foy shows
25 up at your house, right?

1 A Yes. I believe the second, third time, yes.

2 Q And this is after you have been trying to avoid him, is
3 that correct?

4 A Yes.

5 Q And then you figured out it probably was not a good idea
6 to try to avoid the FBI, is that correct?

7 A Yes.

8 Q You figured they were going to find you one way or the
9 other, is that correct?

10 A One way or the other, yes.

11 Q You figured you would get in touch with them?

12 A My mom suggested it. I did it.

13 Q You got in touch with them?

14 A Yes.

15 Q The reason you got in touch with them is because you
16 learned you were potentially in a lot of trouble, is that
17 correct?

18 A Potentially, yes. If the Feds are looking for you, I
19 would assume so.

20 Q What, sir?

21 A If the FBI is looking for you, I assume so.

22 Q Now, sir, you have spent you said days, weeks and months
23 in prison before, is that correct?

24 A Yes.

25 Q Never years, right?

1 A No.

2 Q Now, Agent Foy started talking about ten-to-life, is that
3 correct?

4 A Yes, he did.

5 Q And he started saying that if you don't cooperate with us
6 you're going to get at least ten years in prison, is that
7 correct?

8 A Never said that.

9 Q What did he say?

10 A He asked me if I knew about these gentlemen. I answered
11 him honestly I don't remember and I came in and that's when I
12 was told I was looking at definitely a ten-to-life sentence.

13 Q If you didn't cooperate with the authorities you were
14 looking at a ten-to-life sentence, right?

15 A That's what I was told, yes.

16 Q And you were told that by Agent Foy, is that correct?

17 A No. I was told by the district attorney, after I spoke
18 to my lawyer.

19 Q Well, didn't Agent Foy bring up the time?

20 A He mentioned it to me. He mentioned ten-to-life.

21 Q That's what we're talking about.

22 A Okay.

23 Q He mentioned it to you?

24 A Yes.

25 Q Of course you were concerned that he mentioned the idea

1 that you could spend ten years of your life in prison, is that
2 correct?

3 A Correct.

4 Q At least, right?

5 A I said yes.

6 Q And you were told by Agent Foy that if you cooperated you
7 might spend no time at all in prison, is that correct?

8 A He may have mentioned it.

9 Q He may have mentioned that?

10 A Yes.

11 Q You mean it was not of interest to you that you could
12 either spend ten years in jail or if you cooperated you could
13 spend no time in jail?

14 A I have been in jail before. I've done bad things. I got
15 punished for it.

16 Q Have you ever done time in the federal court system?

17 A No, I have not.

18 Q Have you ever done anything near ten years in jail?

19 A No.

20 Q Do you want to?

21 A If they convict me then I have to do it. Don't complain
22 about it. I have to do it.

23 Q Sir, isn't the reason that you are here today in the
24 hopes that you don't have to do ten years in jail?

25 A To my knowledge, I'm still looking at anywhere between

1 zero-to-life.

2 Q Only zero if the government writes this letter, right?

3 A That's only if.

4 Q What?

5 A That's only if.

6 Q If they write the letter?

7 A Yes.

8 Q And for them to write the letter you have to please them,
9 is that correct?

10 A I have to tell the truth.

11 Q Now, the truth is that in 2004 you claim you knew
12 something about this incident, is that correct?

13 A Like I said, I heard.

14 Q You heard about the incident, right?

15 A Yes.

16 Q So when you heard about the incident in 2004 you ran to
17 the police and told them that you knew something about this
18 murder, right?

19 A No.

20 Q You did not do anything, right?

21 A Nope.

22 Q In fact the murder occurred right there on Church Avenue
23 where you sell marijuana, is that correct?

24 A More than one, yes.

25 Q What?

1 A More than one, yes.

2 Q And it was kind of like you were out there selling
3 marijuana in May of 2004, right?

4 A I sold weed all year round.

5 Q I understand. Twelve months a year?

6 A Except for my birthday.

7 Q The only day you took off was your birthday?

8 A Yes.

9 Q So 364 days a year you're out there selling weed?

10 A If I'm allowed to, yes.

11 Q The one who decides if you are allowed to is Bobby,
12 right?

13 A Ant police.

14 Q Ant police because sometimes the police arrest you and
15 you don't sell weed for awhile?

16 A Yes.

17 Q That's kind of a cost of doing business is every once in
18 a while you get arrested?

19 A Yes.

20 Q Now, sir, how much money do you make selling weed?

21 A It varied.

22 Q How much approximately a year?

23 A I can't give a honest answer to that.

24 Q Can you give any answer?

25 A I have no idea. At that time I was hustling to keep my

1 kids happy. Keep myself in clothes.

2 Q The money you made selling weed you paid income tax on?

3 A No.

4 Q That was all under the table?

5 A Yes.

6 Q Did you ever file an income tax return?

7 A No.

8 Q Now, when Agent Foy shows up he tells you you could get
9 ten-to-life or you could cooperate and maybe get no time at
10 all in jail, right?

11 A He never said no time. He told me I'm looking at
12 ten-to-life. If I cooperated I'm looking at ten-to-life until
13 I spoke to the DA right there and that's when I signed the
14 cooperation agreement.

15 Q So that when you spoke with Mr. Goldsmith and you signed
16 the cooperation agreement -- by the way all this happened
17 really fast, right?

18 A I don't know if it's fast or slow.

19 Q The first time you spoke to Agent Foy was on April 16,
20 right?

21 A No.

22 Q When was the first time you spoke to Agent Foy?

23 A The 19th.

24 Q April 19th?

25 A Yes.

1 Q You're sure about that date?

2 A Yes, I am.

3 Q That was actually a week ago today, right?

4 A I assume so, yes.

5 Q Today is the 26th?

6 A Yes. Okay. It's been a week.

7 Q A week ago today you spoke to Agent Foy and Agent Foy
8 told you you could either get ten-to-life or you can
9 cooperate?

10 A Pretty much, yes.

11 Q Pretty much that's what he said. All right. You
12 decided, with a choice like that, you were going to cooperate,
13 right?

14 A I would tell him what I know. Tell whatever I remember.

15 Q If you didn't remember anything then you were just going
16 to get the ten-to-life, right?

17 A He asked me about my past. I told him my past.

18 Q I understand that, sir. If you were going to be indicted
19 for something you were going to get ten-to-life for, except if
20 you could help the government, is that correct, sir?

21 A I have no reason to hurt Anthony. Anthony never did me
22 nothing. I have no reason to come with a lie.

23 Q You have an interest, sir, as you told us just a little
24 while ago in trying to protect yourself, right?

25 A Yes.

1 Q And you'll do what you got to do to protect yourself,
2 isn't that right, sir?

3 A I lied -- I made a mistake and told them I smoked weed.

4 Q I don't care about the smoking weed. You would try to
5 protect yourself the best you can?

6 A Who wouldn't?

7 Q That's right. Who wouldn't? If you had to lie about
8 Anthony or the other choice to protect yourself, you're going
9 protect yourself, right, sir?

10 A I never knew about Anthony.

11 Q You would do anything you can, sir, to protect yourself,
12 isn't that right? Who wouldn't?

13 A Not to hurt somebody else.

14 Q You would prefer to protect yourself even if it cost
15 somebody else's his life, right?

16 A No, I would not.

17 Q You wouldn't?

18 A No.

19 Q So you made the choice when Agent Foy shows up to
20 cooperate with the government, is that correct?

21 A At that time I was out of the game for almost four years.

22 Q What?

23 A At that time I stopped hustling for almost four years.

24 Q I didn't ask you is that, sir.

25 A I'm telling you.

1 Q Didn't you say after you hustled and got out of jail and
2 Bobby wasn't around any more you started selling weed for
3 yourself? Didn't you just say that?

4 A For two weeks.

5 Q That was within that four year period of time, isn't that
6 right?

7 A Yes. For two weeks, yes.

8 Q Sir, you are not in jail now, are you?

9 A No, I'm not.

10 Q You've never spent one minute in jail, is that correct?

11 A No.

12 Q This time?

13 A Okay.

14 Q This time. You never spent one minute in jail, right?

15 A Yes.

16 Q And, in fact, what happened when you signed your
17 cooperation agreement is Mr. Goldsmith was there and this was
18 his suggestion that you remain out of jail, is that correct?

19 A I don't know about that part of it.

20 Q You were in court, weren't you?

21 A Yes.

22 Q And there was a discussion about bail, right?

23 A I just went to Pretrial Ant judge himself.

24 Q And Mr. Goldsmith was there, too?

25 A With my lawyer. I was not in the conversation.

1 Q Your lawyer Mr. Lashley was there?

2 A Yes.

3 Q Ant judge was there?

4 A The judge was on the bench, yes.

5 Q Mr. Goldsmith was there?

6 A Yes.

7 Q And Mr. Goldsmith made comments saying that he was
8 consenting to you being released, is that correct?

9 A Yes, I believe so.

10 Q And as a result of it you got released, right?

11 A I guess, yes.

12 Q Even though on that same day you signed a cooperation
13 agreement that said if you didn't cooperate with the
14 government you would get at least ten years in prison, is that
15 correct?

16 A Yes.

17 Q But if you did cooperate you could do a lot better than
18 ten years, right?

19 A Yes.

20 Q Now, you said, sir, on direct examination that you worked
21 the morning shift, is that correct?

22 A Yes, it is.

23 Q That would be from about 8:30 in the morning until about
24 3:00 o'clock until the afternoon, is that correct?

25 A Yes.

1 Q And you started working the morning shift from 1999,
2 correct?

3 A 99-2000, yes.

4 Q And 99-2000, you got to meet Anthony, is that correct?

5 A Yes.

6 Q And Anthony you said in 99-2000 when you were working the
7 morning shift he would be riding around on his bicycle, is
8 that correct?

9 A Yes. He would be in the neighborhood.

10 Q That would be from 99-2000?

11 A I can't give you an exact date of when he started doing
12 it.

13 Q He was like a little kid?

14 A They are all little kids to me.

15 Q In 99-2000, or whenever it was, Anthony was around in the
16 morning, is that correct, sir?

17 A I wouldn't say in the mornings all the time. Yes, he was
18 there some days.

19 Q When you say some days, you left your shift at
20 3:00 o'clock, right?

21 A Most of the time yes.

22 Q And when you left your shift, before you left your shift
23 you saw Anthony, is that correct?

24 A Yes. I would see Anthony, yes.

25 Q How often would you see Anthony from 99-2000?

1 A I saw him frequently enough.

2 Q How often was it?

3 A Like I said three, four times.

4 Q Three, four times a week, three four times a month, three
5 four times a year? What's three or four times?

6 A A day.

7 Q Three or four times a day?

8 A Yes.

9 Q Every day between 8:30 and 3:00 o'clock you would see
10 Anthony three or four times, is that correct, in 99-2000?

11 A I would say I would not see him every day from 99-2000.
12 I would see him variable two, three times.

13 Q From 8:30 in the morning to 3:00 o'clock when you were
14 working the morning shift?

15 A It would vary. Sometimes if I would go home or if I
16 would stay late, it would be late nights.

17 Q How often would you see him between 8:30 and 3:00 o'clock
18 on your shift?

19 A Three times.

20 Q What?

21 A Three times.

22 Q Three times day, three times a week, when?

23 A Three times like -- three times a day, if that; probably
24 six times a week. I seen him every day.

25 Q Every day you saw him, right?

1 A Yes.

2 Q And then sometimes you would see him after your shift, is
3 that correct?

4 A Yes.

5 Q Now, you said, sir, that somebody named Josh is your
6 friend, is that correct?

7 A Yes, he is.

8 Q And Josh is -- does he live on the block, Josh?

9 A Yes, he did.

10 Q He lives on Raleigh Place?

11 A No. He lives in various different places.

12 Q Did he ever live on Raleigh Place?

13 A At one point, yes.

14 Q When was that?

15 A I do not know the exactly the year he lived on Raleigh
16 Place.

17 Q How long did he live on Raleigh Place for?

18 A Couple of months.

19 Q And he might have lived other places?

20 A Right.

21 Q Josh, he sold on the block?

22 A Yes.

23 Q Josh is actually the person who got you connected to
24 Bobby, is that correct?

25 A Yes.

- 1 Q And Bobby is the one who was the boss, right?
- 2 A To my knowledge, yes.
- 3 Q Did Bobby use violence to your knowledge?
- 4 A Yes.
- 5 Q What type of violence did Bobby use?
- 6 A Shootings, stabbings, beating people up.
- 7 Q Were you a little scared of Bobby?
- 8 A Everybody was.
- 9 Q Everybody was scared of Bobby, right?
- 10 A Yes.
- 11 Q You didn't want to mess with Bobby, right?
- 12 A Yes. But you still did.
- 13 Q How did you mess with Bobby?
- 14 A By messing his money up, coming up short.
- 15 Q Did you have problems with Bobby or did you have problems
- 16 with Joe or Kion?
- 17 A I had problems with Kion and Joe.
- 18 Q Bobby was okay to you right?
- 19 A I pretty much did my job.
- 20 Q Bobby said you pretty much did your job and he told Kion
- 21 and Joe to leave Dre alone, is that correct?
- 22 A No.
- 23 Q Did Bobby support you?
- 24 A Support me how?
- 25 Q By he got you the weed, right?

1 A Yes.

2 Q So he supported you that way, right?

3 A I supported myself by selling it myself.

4 Q What?

5 A I supported myself by selling the weed for him.

6 Q So you were an employee of Bobby, is that correct?

7 A Yes.

8 Q And you're telling us that you knew that Bobby did
9 testify at proceedings regarding this case, is that correct?

10 A Not this case, but I heard he testified, yes.

11 Q But you have no idea what he testified about?

12 A All I cared about was if my name was mentioned out of his
13 mouth. That's all I cared about.

14 Q Was your name mentioned by Bobby?

15 A Yes.

16 Q So you learned that? You learned that, right?

17 A Yes.

18 Q Who told you?

19 A At the time Lindsey's father told me. Several other
20 people told me.

21 Q Several people told you about that?

22 A Yes.

23 Q Did you ask questions about what was going on at the
24 trial or at the proceedings?

25 A Once in a while I asked was my name being called.

1 Q That's the only thing you asked?

2 A That's all I cared about.

3 Q By the way, this person Devon, do you know somebody named
4 Devon or D?

5 A Little D, yes.

6 Q Why do they call him --

7 MR. DINNERSTEIN: Your Honor, is this a good time to
8 take an a break?

9 THE COURT: Fine. Okay. 11:30. 15 minutes.

10 (Jury excused.)

11 (Recess taken.)

12 (In open court; jury not present.)

13 THE COURT: Ask the jury to come in, please.

14 (Jury present.)

15 MR. DINNERSTEIN: May I continue, your Honor?

16 THE COURT: Go ahead.

17 MR. DINNERSTEIN: Thank you, your Honor.

18 BY MR. DINNERSTEIN:

19 Q When we ended you mentioned that you knew somebody by the
20 name of Devon?

21 A You asked me if I knew Devon and I said yes.

22 Q Pardon?

23 A You asked me if I knew Little D and I said yes.

24 Q Is this the person you know as Devon?

25 A Yes.

1 Q Was he a member of this -- was he in the neighborhood
2 also?

3 A Yes.

4 Q What's his name?

5 A Devon.

6 Q You called him Little Devon?

7 A Little D.

8 Q Why did you call him Little D?

9 A To my knowledge, his father used to be also a guy selling
10 weed on Church Avenue and he passed away after a motorcycle
11 accident.

12 Q Were you around when his father was around?

13 A No, I was not.

14 Q And that was before you started selling in 1999, right?

15 A 99-2000, yes.

16 Q Now, Little D how big was Little D?

17 A Me and him about the same height, inch taller or shorter,
18 give or take.

19 Q How much did Little D weigh would you say approximately?

20 A About maybe 200.

21 Q He was not as big as you?

22 A No.

23 Q How tall did you say you were, sir?

24 A About six-one.

25 Q He was about six feet tall, around there?

1 A Yes.

2 Q Now, did you also know -- I'm going to show you what's
3 been marked as Government's Exhibit 120. Do you know this
4 person?

5 A Yes.

6 Q How do you know that person?

7 A From selling DVD's in the neighborhood.

8 Q What period of time was he out there selling DVD's?

9 A Give you a rough time. Afternoons. Sometimes in the
10 morning I would see him.

11 (Pause.)

12 Q So this person you say sold DVD's in the neighborhood, is
13 that correct?

14 A Yes.

15 Q Approximately, when did he start selling DVD's?

16 A The time of the day he sold it?

17 Q What year?

18 A I don't know what year he started selling DVD's.

19 Q Was it around the time you started selling marijuana?

20 A Yes. I would see him.

21 Q About 99-2000?

22 A 1999-2001, if I remember correctly, about that.

23 Q Did he ever buy marijuana from you?

24 A Once, probably twice. Not really on a substantial basis.

25 Q Did you ever notice whether or not that person,

1 Government's Exhibit 120, whether or not he ever drank?

2 A Yes.

3 Q Did he drink every day?

4 A I can't say every day. When I saw him he had an nip.

5 Q He had a nip you said?

6 A Yes.

7 Q What does that mean to have a nip?

8 A One of them little bottles.

9 Q What type of alcohol would be in the nips?

10 A I don't know. I just knew he had nips.

11 Q Would it be beer or liquor?

12 A Liquor.

13 Q Like Scotch or things like that?

14 A I don't know his preference. I new know it was nips.

15 Q How often would you see him with a nip?

16 A I can't say every day. When I saw him once in a while he
17 would have it. He would take it out and drink one.

18 Q When you say once in a while, how often would you see
19 him?

20 A I would see him once, probably eleven o'clock, twelve
21 o'clock. I wouldn't see him till about 2:30, 3:00 o'clock
22 when I'm walking to go home.

23 Q So you would see him -- when you say once, you mean once
24 a day or more or less than that?

25 A Once, twice a day.

1 Q That would be every day?

2 A Just about, yes.

3 Q Now, when you spoke to Agent Foy the first time was there
4 a lawyer present?

5 A No.

6 Q And after that there was a lawyer present, right?

7 A Yes.

8 Q Mr. Lashley was present, right?

9 A Yes.

10 Q He's the one who explained after you spoke with Agent
11 Foy, is that correct?

12 A Yes.

13 Q Now, sir, you said that you spoke with Anthony a few days
14 after the killing, is that correct?

15 A Yes.

16 Q And of course everyone knew about the killing, right?

17 A I would assume so.

18 Q Well, I mean you knew about the killing, right?

19 A Yes. I heard about it.

20 Q And other people obviously had heard about the killing,
21 is that correct?

22 A Correct.

23 Q Now, you say that you saw Anthony in the candy store, is
24 that correct?

25 A He walked past me.

1 Q What?

2 A He walked past me, yes.

3 Q He walked past you in the candy store?

4 A Yes.

5 Q And you were working selling your marijuana, is that
6 correct?

7 A Yes.

8 Q Now, it did not stop you from selling your marijuana --
9 the murder did not stop you from selling your marijuana, is
10 that correct?

11 A It never has.

12 Q What?

13 A It never has.

14 Q So it didn't stop you on this occasion, right?

15 A No.

16 Q So there was a murder that occurred and right after the
17 murder you started selling marijuana from your 8:30 to
18 3:00 o'clock shift, is that correct?

19 A Not the next day, a couple of days later.

20 Q The next day you didn't work?

21 A No.

22 Q That's because there were a lot of police in the area?

23 A Yes.

24 Q And they were investigating the murder, is that correct?

25 A Correct.

1 Q And then how about the day after that, did you start
2 working?

3 A I believe I worked two days after that, two days after
4 the murder.

5 Q Two days after the murder you started working in your old
6 location on Church Avenue, right?

7 A Yes.

8 Q And is that the time, two days after the murder, that you
9 say that you saw Anthony?

10 A About three days.

11 Q Three days after the murder?

12 A Yes.

13 Q Would that be while you were working your 8:30 to three
14 shift?

15 A Yes, it was.

16 Q It would be either sometime in the morning or early
17 afternoon, is that correct?

18 A Correct.

19 Q He just went into the candy store, is that correct?

20 A He walked past me and went into the candy store, yes.

21 Q He said to you what you say he said, right?

22 A Yes.

23 Q Isn't it a fact, sir, that after the murder you didn't
24 see Anthony at all?

25 A Like I said I saw him three days after the incident. And

1 after that it was basically, once, twice, if that at all.

2 Q But you're saying three days after the murder you saw
3 Anthony, right?

4 A Yes.

5 Q And you had a conversation with him?

6 A A vague conversation, yes.

7 Q A short conversation, right?

8 A Yes.

9 Q And then you left, is that correct?

10 A Did I leave? No. I continued to do what I was doing.

11 Q You were doing your business?

12 A Yes.

13 Q He left?

14 A Yes.

15 Q And he just started walking home, is that your testimony,
16 sir?

17 A He walked on Church Avenue. I stepped back in the store
18 and continued serving people.

19 Q He was selling marijuana too?

20 A I was selling weed.

21 Q He was not selling?

22 A No he came in, saw the guy behind the counter and walked
23 out.

24 Q He looked calm to you, is that correct?

25 A I can't tell if he was calm or not. He walked past me.

1 Anthony answered really short and then walked out.

2 Q And he then walked in one direction, is that correct?

3 A Yes, toward Raleigh Place and I stayed back in the store.

4 Q You continued working, is that correct?

5 A Yes.

6 Q Sir, that never happened, did it?

7 A Yes, it did.

8 MR. DINNERSTEIN: I have nothing further.

9 THE COURT: Any redirect?

10 MR. GOLDSMITH: A little bit, your Honor.

11 REDIRECT EXAMINATION

12 BY MR. GOLDSMITH:

13 Q Mr. Thomas, you were asked on cross-examination about
14 having heard that Bob testified previously, right?

15 A Yes.

16 Q And you said you talked to several people about that?

17 A Yes.

18 Q Did anyone who works for the government ever tell you
19 that Bob had testified previously?

20 A No.

21 Q Do you know when Bob testified?

22 A When I was told, it was during the summertime. If I was
23 correct, during the summertime I saw the gentleman who told
24 me.

25 Q Had you ever heard whether he had testified more recently

1 than that?

2 A No.

3 Q You were asked on cross-examination about whether Bob
4 told Kion and Joe and others to leave you alone when you
5 screwed things up, correct?

6 A Yes.

7 Q And you said that he did not?

8 A No, I did not.

9 Q You told us about an incident you had with Rico?

10 A Yes.

11 Q When Rico stabbed you because you sold into his shift?

12 A Yes.

13 Q Was Bob there at that time?

14 A Yes, he was.

15 Q Did you say anything to Bob?

16 A Yes. I looked at him like, you know, he stabbed me. I
17 went to Bob and I told Bob, you know, he stabbed me. You
18 know, are you going to do anything about it? I, in turn, said
19 I shouldn't have talked shit to him.

20 Q Him being Rico?

21 A Yes.

22 Q You said you went to Bob. Was Bob present when Rico
23 stabbed you?

24 A Probably he was in front of the Couchery, him and a group
25 of others were in front of the Couchery.

1 Q That's on Church Avenue you said?

2 A Yes, it is.

3 MR. GOLDSMITH: One moment, your Honor.

4 (Pause.)

5 Q Aside from seeing the defendant with a .38 in the back of
6 the candy store that you told us about --

7 A Yes.

8 Q -- did you ever see the defendant with a gun on any
9 other occasion?

10 A Not to my knowledge, no.

11 MR. GOLDSMITH: Nothing further, your Honor.

12 THE COURT: Anything else, Mr. Dinnerstein?

13 MR. DINNERSTEIN: Nothing, your Honor.

14 THE COURT: You may step down.

15 (Witness excused.)

16 THE COURT: Next witness.

17 MR. GOLDSMITH: If we could have a brief moment,
18 your Honor.

19 THE COURT: We'll wait here.

20 THE COURT: While we're getting the next witness,
21 it's a beautiful day to day. For those who may not know the
22 neighborhood, I'll give maybe an extra fifteen minutes for
23 lunch and you can walk around.

24 If you go straight in that direction, whatever that
25 direction is, you'll hit the water. You can walk down any one

1 of a number of streets, to get there. Pierrepont Street will
2 take you right down there. The nicest view of Lower Manhattan
3 is right here from Brooklyn. They have a beautiful walkway
4 and there are restaurants on Pierrepont and Montague Street.
5 You may want to stop off there. Some of you may know the
6 neighborhood and some don't. This would be a good day for you
7 to see that if you would like to do that.

8 MR. GOLDSMITH: Your Honor, the government calls Dr.
9 Joaquin Guiterrez.

10 J O A Q U I N G U I T E R R E Z,

11 having been duly sworn was examined and
12 testified as follows:

13 THE COURT: Let us hear who you are. Sit down and
14 you probably have testified before in court, right.

15 THE WITNESS: Yes.

16 THE COURT: It's not going to be any surprise to you
17 if I would ask you to spell your name for the record.

18 THE WITNESS: Yes.

19 THE COURT: Go ahead.

20 THE WITNESS: My name is Joaquin Guiterrez, J O A Q
21 U I N, the last name is spelled G U I T E R R E Z.

22 DIRECT EXAMINATION

23 BY MR. GOLDSMITH:

24 Q What do you do for a living?

25 A I work as a forensic pathologist.

1 Q For who?

2 A I work for the Office of the Chief Medical Examiner of
3 New York City.

4 Q What's your position there?

5 A My position is that of a New York City Medical Examiner
6 II.

7 Q What does the II signify?

8 A The II signifies that one is board certified in forensic
9 pathology by the American Board of the Pathology.

10 Q What's forensic pathology?

11 A Forensic pathology is that branch of medicine that deals
12 with the study of diseases and injuries and applies this
13 knowledge to the problems in the courts of law and in
14 determining the cause and manner of the death.

15 Q How long have you worked for the Medical Examiner in New
16 York?

17 A Approximately 26 years.

18 Q What are your duties there?

19 A My duties include investigating all sudden, unexpected
20 and unnatural deaths, the unnatural death being homicide,
21 suicides, accidents and those caused by drugs and we do this
22 by performing autopsies.

23 Q About how many autopsies have you performed in your
24 career?

25 A Approximately eight thousand autopsies.

1 Q Could you describe your medical training for us, please,
2 briefly?

3 A I got my medical degree from the University of the
4 Philippines. I had three years of training in pathology in
5 the Philippines and I had four years of training in pathology
6 here in the United States in Metropolitan Hospital and in
7 Lincoln Hospital in New York City and I'm board certified in
8 forensic pathology by the American Board of Pathology.

9 Q Are you board certified in anything else?

10 A Yes. I'm board certified in anatomic and clinical
11 pathology.

12 Q Are you licensed to practice medicine in the State of New
13 York?

14 A Yes.

15 Q Have you ever testified in court before?

16 A Yes.

17 Q About how many times?

18 A Approximately 450 times.

19 MR. GOLDSMITH: The government offers Dr. Guiterrez
20 as an expert in forensic pathology.

21 MR. DINNERSTEIN: No objection.

22 THE COURT: All right. He's an expert. Go ahead.

23 Q Dr. Guiterrez, you referred to cause of death and manner
24 of death, is that right?

25 A Yes.

1 Q What is cause of death?

2 A The cause of death is the disease or injury that caused a
3 person to lose his life.

4 Q When you say manner of death, what do you mean by that?

5 A The manner of death is the circumstances surrounding the
6 loss of life of person, when whether it's natural when it's
7 caused by a disease, whether it's homicide that it's caused by
8 the action of another person, whether it's suicide being that
9 death is suddenly inflicted or an accident or whether the
10 manner or the circumstances is undetermined.

11 (Continued on next page.)

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1 DIRECT EXAMINATION (Cont'd)

2 BY MR. GOLDSMITH:

3 Q Did you perform an autopsy on an individual named
4 Kevin Simon?

5 A Yes.

6 Q How old was Mr. Simon when he died?

7 A Twenty-three years old.

8 MR. GOLDSMITH: May I approach, Your Honor?

9 THE COURT: You may.

10 Q Doctor, I am going to hand you four documents. They have
11 been marked as Government Exhibit 429, 430, 431 and 432. Can
12 you just tell us briefly, please, what each one of these
13 documents is?

14 A Yes. The first document is a certified copy of the
15 autopsy report I performed on the deceased Kevin Simon, Ant
16 next is a body diagram showing the gunshot wounds to the
17 deceased, the third is a photograph of the gunshot wounds on
18 the body of the deceased, Ant fourth document is a copy of the
19 death certificate of the deceased Kevin Simon.

20 MR. GOLDSMITH: The government offers Exhibit 429,
21 430 and 431 and 432 in evidence will.

22 MR. DINNERSTEIN: May I just look at 429?

23 THE COURT: You want to look at 429, the autopsy
24 report.

25 (Mr. Goldsmith handing to Mr. Dinnerstein)

1 MR. DINNERSTEIN: I have no objection.

2 THE COURT: All in evidence at this time.

3 (Government Exhibits 429, 430, 431 and 432 received
4 and marked in evidence)

5 Q Doctor Guiterrez, starting with 429, I am going to put it
6 on the screen so the jury can see it. What do you say that
7 is?

8 A This is the first page of the autopsy report that I
9 performed on the deceased Kevin Simon.

10 Q When did you perform that autopsy?

11 A May 27, 2004.

12 Q What was the first step in the autopsy?

13 A The first step, external examination.

14 Q What does that mean?

15 A An external examination is a visual examination of the
16 body, knowing the body's characteristics, like, the height,
17 weight, age, sex, race and any evidence of external injuries
18 and medical intervention.

19 Q In this instance what did you find that was significant?

20 A The most significant findings on the external examination
21 was the presence of an entrance wound on the left upper chest
22 and an entrance wound on the left thigh, with an exit wound on
23 the back of the left thigh.

24 MR. GOLDSMITH: I am going to put on the screen
25 Government Exhibit 430.

1 Q What is that?

2 A This is a body diagram showing the entrance gunshot wound
3 on the left upper chest Ant gunshot wound on the left thigh of
4 the deceased.

5 Q Who wrote those notes on the diagram?

6 A I wrote those notes.

7 Q All right. Government Exhibit 431 you told us was the
8 photograph from the autopsy. Putting those on the screen, do
9 you see that?

10 A Yes.

11 Q Tell us what those photos are, please.

12 A The one on the left upper corner shows the will side view
13 of the head and part of the torso of the deceased showing the
14 gun shot wound on the left upper chest. While the one on the
15 upper right show a closer view of the entrance gunshot wound
16 on the left upper chest.

17 Q Annoy those tonight bottom?

18 A Bottom left is the entrance gunshot wound on the left
19 thigh, while on the lower right is the exit gunshot wound on
20 the back of the left thigh.

21 Q Going back to the chest entrance wound, did you determine
22 where the bullet went?

23 A Yes.

24 Q Where did it go?

25 A The bullet wound from the left upper chest to the muscles

1 of the chest, to the neck, transected the right carotid artery
2 and injured the right thyroid gland Ant bullet was recovered
3 behind the right clavicle.

4 Q You referred to the carotid today artery, what is that?

5 A The carotid artery is the largest blood vessel bringing
6 blood from the heart to the neck Ant head.

7 Q And you referred to the right clavicle, what is that?

8 A The right clavicle is the right collarbone.

9 Q Did you recover the bullet?

10 A Yes.

11 Q What did you do with it?

12 A I labeled the bullet with letter S to stand for the first
13 letter of the last name of the deceased, place it in a label
14 envelope and submitted it to ballistics.

15 Q Now, the wound to the thigh, tell us about that wound,
16 please.

17 A This is a perforating gunshot wound, meaning it entered
18 the front of the thigh and exited the back of the thigh
19 without fracturing the bone or injuring the major blood
20 vessels.

21 Q What makes you say it entered the front and exited the
22 back as opposed to the other way around?

23 A First I examined the clothing of the deceased, the front
24 part of the pants has the black powder around the perforation,
25 meaning the bullet entered there, and also, examined the

1 wound, the entrance wounds is more regularly, meaning it is
2 either round or oval with a margin of abrasion, while the exit
3 wound is more irregular.

4 Q You mentioned powder on the clothing, what sort of powder
5 is that?

6 A Black powder or soot.

7 Q From where?

8 A From the muzzle of the gun when the gun was fired,
9 meaning the muzzle of the gun was in close contact with the
10 clothing. Most likely, less than six inches.

11 Q Now, can you determine precisely how close the gun was to
12 the clothing?

13 A No.

14 Q How would you be able to determine that?

15 A You can only determine that if we had the gun recovered
16 and test fired the gun.

17 Q So when you say less than six inches, is that a precise
18 amount or is that an approximate?

19 A It is approximate amount.

20 Q You also referred to abrasions on the entry wound but not
21 the exit wound, can you see those on the photos here?

22 A Yes.

23 Q Can you see powder anywhere else?

24 A The powder is found only at edge of the perforation on
25 the entrance gunshot wound to the left chest.

1 Q Did you find it on any of the other clothing?

2 A I found it in the upper garments of the deceased, like
3 the blue shirt, white undershirt, Ant blue sweat-jacket.

4 Q Did you examine Mr. Simon's hands?

5 A Yes.

6 Q Were there any wounds to his hands?

7 A There are no wounds to his hands.

8 Q Did you examine his head?

9 A Yes.

10 Q Were there any injuries to his head?

11 A There was no injuries to his head.

12 Q Were tests performed on Mr. Simon's blood?

13 A Yes.

14 Q What were the results of these tests?

15 A The tests for the blood showed that cannabinoids or
16 marijuana was detected in the blood of the deceased.

17 Q How do you get cannabinoids in your blood?

18 A By smoking marijuana.

19 Q The last exhibit I showed you, Doctor, is Government
20 Exhibit 432, what is that?

21 A It is a copy of the death certificate that I performed on
22 the deceased Kevin Simon.

23 Q What was the manner of Mr. Simon's death?

24 A Homicide.

25 Q Is that listed here on the form?

1 A Yes.

2 Q Where?

3 A In the line eight.

4 Q You touched the screen there. You can mark it.

5 A This one (complied). Oh, it is higher than --

6 Q Imprecise?

7 A That one. This one.

8 Q Okay. And what was the cause of his death?

9 A The cause of death was gunshot wound to chest and thigh,
10 with injuries to the carotid artery and thyroid gland.

11 Q Is that listed on the form?

12 A Yes.

13 Q Where?

14 A It's here (indicating).

15 Q Okay. You mentioned two gunshot wounds. Can you tell
16 which one of them was the fatal wound?

17 A The fatal one was the gunshot wound to the chest.

18 Q Why is that?

19 A Because it perforated the carotid artery, which is a
20 large blood vessel.

21 MR. SMITH: Nothing further.

22 THE COURT: Any questions, Mr. Dinnerstein.

23 MR. DINNERSTEIN: Yes, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. DINNERSTEIN:

1 Q Good afternoon, Doctor?

2 A Good afternoon.

3 Q My name is Mr. Dinnerstein. I represent Mr. Praddy, and
4 I'm just going to ask you a few questions. Okay?

5 A Yes.

6 Q Now, sir, you indicated on direct examination that you
7 determined what the height and weight was of Mr. Simon?

8 A Yes.

9 Q And what was his height an weight?

10 A The height of the deceased was five feet and nine inches,
11 Ant weight was 214 pounds.

12 Q And you also mentioned on direct examination that there
13 was marijuana in his blood; is that correct?

14 A Yes.

15 Q Is there a way of determining when marijuana is in
16 someone's blood how long prior to his death he had smoked
17 marijuana?

18 A No, because marijuana can be detected in the blood even
19 after several days after taking marijuana.

20 Q Did you also do any other tests to determine whether he
21 had marijuana in any other body part, somewhere else?

22 A Yes.

23 Q Okay. What did you do?

24 A It was detected also in the urine of the deceased.

25 Q What is the significance of marijuana being in someone's

1 urine?

2 A It would indicate he was a user of marijuana.

3 Q What?

4 A User of marijuana.

5 Q Would it indicate actually when he would have used the
6 marijuana for it to be in the urine?

7 A No.

8 Q Is there any difference between blood -- marijuana being
9 found in the urine or in blood?

10 A There's no difference because once marijuana is detected
11 in the blood it will be detected in the urine also.

12 Q You said that marijuana could have been smoked some
13 period of time prior to his death; is that correct?

14 A Yes.

15 Q Is there a way to approximate how much time?

16 A Just several days. Not approximate.

17 Q Several days?

18 A Yes.

19 Q Now, you also mentioned something about seeing black
20 powder; is that correct?

21 A Yes.

22 Q Now, can you tell the ladies and gentlemen of the jury
23 what stippling meaning?

24 A Powder stippling at pinpoint black mark or abrasions
25 found around the entrance wound caused by deposits of black

1 powder, it would indicate that the muzzle of the gun was fired
2 at a distance less than 18 to 24 inches.

3 Q That is the black powder you saw would indicate that the
4 muzzle of the gun was between 18 an 24 inches?

5 A This black powder is more like soot, meaning it is more
6 homogenous, not pinpoint. So it could would indicate it's a
7 much closer.

8 Q And whether when you say much closer?

9 A As I mentioned before, approximately less than six
10 inches.

11 Q Could it have been contact of wound, could it have been
12 toughing the skin when -- touching the clothing when the
13 muscle was fired?

14 A That's correct.

15 Q It is possible?

16 A It is possible.

17 Q It could have happened.

18 Now, you also mentioned that there was something --
19 that there was an injury to the leg; is that correct?

20 A To the left thigh yes.

21 Q To the left thigh. Okay.

22 And did you also check to see whether or not there
23 was any powder regarding that particular injury?

24 A I noted only the powder in the clothing of the pants of
25 the deceased but not in the wound itself.

1 Q What? I'm sorry.

2 A Not in the entrance wound.

3 Q So that would mean that the muzzle of the gun as it
4 applied to the thigh was fired at a greater distance than 18
5 to 24 inches; is that correct?

6 A No, not really, because it was found in the clothing, so
7 it would still be contact or close to contact.

8 Q As it applies to the injury to the chest?

9 A That's correct.

10 Q I am talking about the injury to the thigh.

11 A The thigh is also because the powder was found in the
12 clothing. That would indicate the same thing.

13 Q That there was a powder, there was an injury to the --
14 there was a something on the pants that would indicate that
15 the entrance wound went through the pants and there was black
16 powder as it applies to the leg, is that correct, to the
17 thigh?

18 A That's correct.

19 Q So it was within -- did that look similar to the entrance
20 wound that was in the chest?

21 A That the wound in the chest bears some black powder, the
22 wound in the thigh doesn't have the black powder; only in the
23 clothing.

24 Q Well, what's the significance of the difference between
25 the wound in the chest and wound in the leg?

1 A It's possible that the clothing is much thicker on the
2 pants compared to the one in the upper garments. Also possible
3 that the muzzle of the gun was fired a little farther than the
4 one in the chest.

5 MR. DINNERSTEIN: Thank you, very much.

6 I have nothing further.

7 THE COURT: Anything further, Mr. Goldsmith?

8 MR. GOLDSMITH: No, Your Honor.

9 THE COURT: Thank you, very much.

10 Doctor, you may step down.

11 Any other witnesses?

12 MR. SMITH: Yes, Your Honor, one. The government
13 calls James O'Sullivan.

14 THE CLERK: Good afternoon, Mr. O'Sullivan.

15 J A M E S O ' S U L L I V A N,

16 having been first duly sworn/affirmed, was examined
17 and testified as follows:

18 THE CLERK: Please have a seat.

19 Please state your name and spell it.

20 THE WITNESS: James O apostrophe S-U-L-L-I-V-A-N.

21 DIRECT EXAMINATION

22 BY MR. GOLDSMITH:

23 Q What do you do for a living, sir?

24 A Currently I'm a construction site safety coordinator.

25 Q How long have you been doing that?

1 A Approximately three and a half years.

2 Q What did you before that?

3 A I was a New York City Police Detective.

4 Q When did you join the New York City Mr. Dhaifallah?

5 A July 1987.

6 Q Were you working on May 26, 2004?

7 A Yes, I was.

8 Q What unit were you in at this time?

9 A I was in the Crime Scene Unit.

10 Q Is that a city-wide unit or assigned to a particular
11 area?

12 A City-wide.

13 Q Whether did you join the Crime Scene Unit?

14 A May of 2001.

15 Q What were you are duties there?

16 A As a member of the Crime Scene Unit it was my
17 responsibility to respond to crime scenes, to document,
18 investigate documents, recover -- identify, recover package
19 both forensic and latent evidence for analysis and testimony.

20 Q Did you receive training for that work?

21 A Yes.

22 Q What was your rank as of May 26, 2004?

23 A I was detective.

24 Q What shift did you work that day?

25 A That day I worked my 18 hour overnight. I started at

1 2 p.m. and finished at 8 a.m. the following morning.

2 Q Did you handle a murder scene that night on Church Avenue
3 in Brooklyn?

4 A Yes, I did.

5 Q Where, specifically, were you called?

6 A In front 3111 Church Avenue.

7 Q When were you called there?

8 A I received the notification approximately 11 -- excuse me
9 -- 10:50 p.m.

10 Q Showing you what's in evidence Government Exhibit 472,
11 what is that?

12 A That's an overall view north of the north Church Avenue
13 sidewalk in front of 3111 Church Avenue.

14 Q Which storefront is 3111?

15 A 3111 storefront that's partially obscured by the tree.

16 Q What did you find when you got there?

17 A Upon arrival at the scene the sidewalk was cordoned off
18 with both crime scene tape, as well as marked and unmarked
19 police vehicles, as well as uniformed police officers, and
20 detectives.

21 Q You say it was cordoned off. What do you meant, it had
22 already been cordoned off or you cordoned it off?

23 A It was cordoned off prior to my arrival.

24 Q What did you do?

25 A Upon arrival at the scene I did an initial walk-through

1 in an attempt to locate or observe evidence, possible
2 evidence, as it was within the site. The next step would be
3 to sketch the scene. A handwritten sketch was produced. Then
4 the scene would have been photographed or I photographed the
5 scene. Upon completion of photographs, it would be identifying
6 the evidence that would be processed at the scene or
7 collected, photographed again in place, and then as being
8 processed and recovered additional photographs taken. That
9 evidence -- that was recovered was then package and turned
10 over to police officer for vouchering.

11 Q In fact, this photograph, Government Exhibit 472, did you
12 take that photograph?

13 A Yes, I did.

14 Q You said that's facing in what direction?

15 A Overall view northbound. Facing north -- north sidewalk.

16 Q On the screen is Government Exhibit 473 which is in
17 evidence. What is that?

18 A That's an overall view westbound of the westbound lane of
19 Church Avenue. The north sidewalk is to your right. South
20 sidewalk is to your left.

21 Q On the right edge of the photo there, there's an awning
22 that says Roti shop?

23 A Right.

24 Q Is that the same Roti shop that was in the last photo
25 that we looked at?

1 A Yes.

2 Q Now, there's a parking meter next to a white van there,
3 do you see?

4 A Yes.

5 Q Is there something on the ground next to the parking
6 meter? Can you see it?

7 A The parking meter directly adjacent or next to that van,
8 right below it is a pile of clothing.

9 Q Showing you Government Exhibit 475 which is in evidence,
10 what's that?

11 A That's an overall view eastbound of westbound lane on the
12 north side of Church Avenue. The north sidewalk is to your
13 left, south sidewalk is to your right.

14 Q Again, can you see that Roti shop in that picture?

15 A Yes.

16 Q Where is it?

17 A It's in the upper left or the left corner.

18 Q What color is it?

19 A White and red one.

20 Q Can you see the pile of clothing in this photo?

21 A Between the car, Ant area of the tree it will be the
22 clothing between the car Ant tree.

23 Q Showing you Government Exhibit 471, which is in evidence,
24 what's that?

25 A That's a close-up view of the area in front of 31 -- 1131

1 13, the northbound sidewalk facing eastbound, with the crime
2 scene evidence numbers one, two and three in the photograph.

3 Q Is the pile of clothing we've been talking about, is that
4 there?

5 A Yes, it is adjacent to marker number three.

6 Q What are those markers for?

7 A The markers are evidence locations that were found during
8 the initial walk-through Ant investigation.

9 Q Did you put those there?

10 A Yes, I did.

11 Q Showing you Government Exhibit 477, which is in evidence,
12 what is that?

13 A That's a close-up view of the pile or the pile of the
14 clothing located next to or adjacent to item number three.
15 That's marker number three. My crime scene evidence ruler is
16 inserted into the photograph with the letter C Ant crime scene
17 ring 04/589.

18 Q What type of clothing is it that's there?

19 A There is a blue sweat zippered Roker (ph) wear
20 sweatshirt, blue T-shirt and also a white tank top or T-shirt.

21 MR. GOLDSMITH: May I approach, Your Honor?

22 THE COURT: You may.

23 Q Showing you what's been marked Government Exhibit 436,
24 what is that?

25 A This is a close-up view of the white tank top, a blue

1 crime scene ruler evidence ruler C1B inserted in the photo,
2 crime scene number 04/589. The shirt is cut and contains
3 blood.

4 Q What's been marked Government Exhibit 463, what is that?

5 A Overall view of the blue Roker (ph) wear zippered sweat
6 shirt. Crime scene ruler is inserted. It is whited out or too
7 much flash or bad copy, so I cannot make out my crime scene
8 number, and in the upper right, which would be the upper left,
9 of the article of clothing, is a wooden Q tip inserted in a
10 ballistic hole or bullet hole.

11 MR. GOLDSMITH: Government offers 436 and 463 in
12 evidence.

13 THE COURT: 436 and 463. No objection, it's in
14 evidence.

15 (Government Exhibits 436 and 463 received and
16 marked in evidence)

17 Q Sir, putting Government Exhibit 436 on the screen. Now
18 that the jury can see that, can you tell us again what that
19 is?

20 A White tank top, again, the crime scene, evidence ruler
21 C1B inserted in the photograph. Crime scene number 04589 on
22 the ruler is the white tank top that has been cut and contains
23 the quantity of blood.

24 Q Is that the T-shirt that was in the pile of clothing that
25 we were looking at before?

1 A Yes, it is.

2 Q Now, Government Exhibit 463, again, now that the jury can
3 see it, what is that?

4 A That is a blue Roker wear zippered sweat shirt, crime
5 scene ruler is inserted in the photograph, in the photo, Ant
6 upper right corner you will see a wooden stick which is
7 actually a Q tip.

8 Q Could you circle that please for us on the screen?

9 A (Witness complied).

10 Q Okay. What is that?

11 A It's a wooden Q tip indicating where ballistics damage or
12 a bullet hole is located inside the fabric.

13 Q Is this the jacket that was in the pile of clothing?

14 A Yes, it was.

15 Q Did you examine the jacket?

16 A Yes, I did.

17 Q What did you find?

18 A In the front right zippered pocket there were five
19 glassine envelopes, Ziploc baggies of possible marijuana.

20 MR. GOLDSMITH: Nothing further, Your Honor.

21 THE COURT: Any questions, Mr. Dinnerstein.

22 MR. DINNERSTEIN: Yes, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. DINNERSTEIN:

25 Q Mr. Dinnerstein, my name is Mitch Dinnerstein. I am

1 going to ask you a few questions.

2 A Sure.

3 Q On May 26th -- oh, by the way, how long had you worked
4 with the Mr. Dhaifallah before you retired?

5 A Twenty years and four days.

6 Q And then you retired from the Mr. Dhaifallah?

7 A Yes, I did.

8 Q That was in what year, sir?

9 A 2007.

10 Q Now, let's get back to what the prosecutor talked about,
11 May 26, 2004.

12 A Okay.

13 Q You were working the crime scene unit on that day; is
14 that correct?

15 A Yes, I was.

16 Q And you'd been in the crime scene unit about three weeks;
17 is that right?

18 A Approximately, yes.

19 Q Now, on that day, sir, did you work with a partner?

20 A Yes, I did.

21 Q What is the name of your partner?

22 A Police Officer Hulick H-U-L-I-C-K.

23 Q And was he with you when you made these observations on
24 Church Avenue on that day?

25 A Yes.

1 Q Now, you said, sir, that at sometime you received a call
2 to go to that particular location; is that correct?

3 A Correct.

4 Q You were informed that there had been homicide or
5 shooting at that location; is that correct?

6 A I was requested to respond to a homicide.

7 Q And did you know about what time it was that you arrived
8 at the location?

9 A Approximately 11:40 p.m.

10 Q Did you know what time the homicide had been committed?

11 A If I may refresh to my notes?

12 Q Sure.

13 A Refreshing to my handwritten notes, as well as the typed
14 crime scene, reported time of occurrence was 2130, which is
15 9:35 p.m. (perusing).

16 Q So you got to the location around two hours later,
17 approximately?

18 A Correct.

19 Q And by that time the homicide victim was not there any
20 more; is that correct?

21 A Correct.

22 Q And there was clothing there; is that correct?

23 A Yes.

24 Q Now, do you know how the clothing got on to the street?

25 A That's where it was located when I got there. I cannot

1 testify to what happened prior to my arrival.

2 Q Based upon your experience as a crime scene detective, is
3 it often the case that when medical services are given to
4 somebody that they take off clothing?

5 A Yes.

6 Q So that is a possible way the clothing got to the
7 location, was on the street; is that correct?

8 A Yes.

9 Q That, of course, would be clothing that would have been
10 touched by the person who had taken it off; is that correct?

11 A If we are talking about the medical personnel, yes.

12 Q Now, you mentioned, sir, that when you arrived there were
13 numerous other police vehicles there; is that correct?

14 A Yes.

15 Q Could you approximate how many there were?

16 A To the best of my recollection, two to three vehicles.

17 Q Were there also civilians at the location?

18 A I don't recall seeing any civilians. There was nobody
19 inside the crime scene but I do not recall seeing any
20 civilians.

21 Q The reason the crime scene is set up is so that it can
22 remain -- I guess the word would be as pure as possible; is
23 that correct?

24 A That's correct.

25 Q When you got to the location at about 11:40 p.m. that is

1 when you started taking the photographs that we have been able
2 to see?

3 A Shortly after, yes.

4 Q You also said that you looked at some ballistics
5 evidence, is that correct, or what is potentially ballistics
6 evidence, right?

7 A Upon processing the clothing, finding ballistics damage
8 to the clothing, yes.

9 Q Now Mr. Goldsmith actually showed you a photograph that
10 you took, is that correct, that would be Government
11 Exhibit 461?

12 A Yes.

13 Q That is one of the photographs that you took?

14 MR. GOLDSMITH: 471.

15 MR. DINNERSTEIN: I'm sorry, you're right.

16 Q Government Exhibit 471?

17 A Yes.

18 Q And there's a number one; is that correct?

19 A Yes.

20 Q And do you know what number one was?

21 A Number one was a glass beer bottle inside a brown paper
22 bag.

23 Q And what was the reason that you felt that would have
24 been ballistics evidence?

25 A That's not indicating ballistics evidence, sir.

1 Q What?

2 A That is not indicating ballistics evidence.

3 Q I see. Why did you put the number one there?

4 A For possible saliva DNA evidence, as well as latent print
5 evidence.

6 Q So you took -- and that item was what we called
7 vouchered; is that correct?

8 A Yes.

9 Q Just could you tell the ladies and gentlemen of the jury
10 what it means to voucher something?

11 A Just -- you want it nice and easy or do you want it as
12 relation to the crime scene?

13 Q Well, let's see. In relation to crime scene but that is
14 why you vouchered that particular item?

15 A All right. Just wanted to make sure.

16 Q Okay.

17 A This evidence, after it is processed, then it becomes
18 vouchered. After processing the evidence I will place it in a
19 brown paper bag, seal that bag, initial the bag, put a label
20 on that bag stating what it was processed for, or what I am
21 requesting the processing, if it is to be delivered to the
22 lab, what it is going to be processed for. Upon my packaging
23 that item I would turn it over to a police officer, in this
24 case it was Police Officer Legister (ph) from the local
25 command, and it was his job to go to the precinct, take out a

1 voucher which is a numbered form -- sequentially numbered form
2 which puts identity to that package. Upon completion of that
3 voucher the voucher is affixed to the item, and it states what
4 the item -- that tells the Mr. Dhaifallah what it is, where it
5 goes, and assigns that number -- that specific number to that
6 item.

7 Q Sir, what was the reason you processed this particular
8 item at that crime scene May 26, 2004?

9 A There's a two times that you are referencing, sir.
10 Which?

11 Q I am talking about number one?

12 A Yes, there are two items in that.

13 Q There's a paper bag and bottle?

14 A The paper bag would be processed for chemical latent
15 prints, which is not done in the field. That would have been
16 vouchered and forwarded to the Mr. Dhaifallah lab for chemical
17 latent development. The bottle itself -- the bottle would be
18 processed for latent fingerprints in the field, as well as
19 swabbed for possible saliva DNA evidence.

20 Q Did you fill out some paperwork so that would be done as
21 to item number one?

22 A Yes.

23 Q Thank you.

24 And now there's also an item number two; is that
25 correct?

1 A Yes.

2 Q And what, sir, is item number two?

3 A You cannot see it in this photograph. It depicts another
4 beer bottle that is laying in the street next to the curb.

5 Q You did the same thing with item number two which you did
6 with item number one, is that correct, separate bag?

7 A Everything except for the paper bag, yes.

8 Q Now, sir, did you find any ballistics evidence at the
9 location, like spent bullets or anything like that?

10 A No.

11 Q Do you look for things like spent bullets?

12 A Yes.

13 Q At this time on this occasion you didn't find any; is
14 that correct?

15 A Correct.

16 MR. DINNERSTEIN: That's it.

17 Thank you, very much, sir.

18 THE COURT: Anything further. Mr. Goldsmith?

19 MR. GOLDSMITH: Just briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. GOLDSMITH:

22 Q Sir, are there some times of guns that leave spent
23 bullets behind and some that don't?

24 A Yes.

25 Q What times of guns do not leave spent bullets behind?

1 A Revolvers, unless reloaded at a scene. A revolver would
2 contain either five, six. I believe some models may contain
3 more in the cylinder and when they are fired the cartridges or
4 the casings stay within the cylinder of the firearm.

5 Q What is an example of a revolver?

6 A Typical revolver is a handgun that has a round cylinder.

7 Q Let me ask that again.

8 A Yes.

9 Q What sort of calibers do revolvers usually come in?

10 A Revolvers usually come in anywhere from at least 22 up
11 until 44 caliber, but I am not real big gun buff.

12 Q Any in between?

13 A Twenty-five, 38. 38s like 40 caliber, 44-caliber.

14 MR. GOLDSMITH: Nothing further, Your Honor.

15 THE COURT: Anything else, Mr. Dinnerstein?

16 MR. DINNERSTEIN: Nothing else.

17 Thank you, for coming.

18 THE WITNESS: Thank you, sir.

19 THE COURT: All right. Mr. Goldsmith, does the
20 government have any more witnesses or evidence to submit?

21 MR. GOLDSMITH: At this time the government rests.

22 THE COURT: Members of the jury, you now have heard
23 the government's complete case. What remains after the lunch,
24 which will be at 2:15, we will give you little extra time
25 today, I have a few things to do also, I am advised

1 Mr. Dinnerstein wishes to have some witnesses called to
2 testify on behalf of the defendant. As I advise you, that is
3 the defendant's right. The defendant has the choice to do
4 that, he doesn't have to do that. So we will hear some
5 testimony this afternoon. It might well be that we will
6 complete the testimony this afternoon possibly and we will
7 see.

8 MR. DINNERSTEIN: Don't hold me to it.

9 THE COURT: We will see. No pressure. Nobody's
10 under any pressure but obviously, we are getting towards the
11 end of the line. Okay, so have a nice lunch. We will
12 reconvene at 2:15. Enjoy the nice weather. Don't talk about
13 the case.

14 (Jury exited the courtroom)

15 THE CLERK: You may be seated.

16 THE COURT: Do you want to make your Rule 29 motion
17 now, Mr. Dinnerstein?

18 MR. DINNERSTEIN: Yes. I move that the government
19 has not made out a sufficient case, Your Honor, and I ask the
20 Court to dismiss the charges.

21 THE COURT: Well, the record is preserved, but there
22 is obviously a case for the jury to decide, so it is denied.

23 So what do we have to look forward to at 2:15?

24 MR. DINNERSTEIN: We have Mr. James, who testified at
25 the first trial for the government. I have been told by the

1 agent Ant assistants he would be made available to me at 1:30.
2 I have asked Mr. Goldsmith if he would wish to speak to me
3 prior to his testifying with Mr. Goldsmith present, I have
4 been told by Mr. Goldsmith that he will bring that up with the
5 witness to find out.

6 THE COURT: Let the witness make the choice.

7 MR. GOLDSMITH: Just so the record is clear,
8 Mr. Dinnerstein previously asked to speak with Mr. James. We
9 communicated that request to Mr. James. Mr. James declined.
10 This is a followup request.

11 THE COURT: All right.

12 MR. DINNERSTEIN: I also call Judy Praddy to the
13 witness stand. She's the mother of the defendant. She
14 testified at the other trial and I will then call the
15 defendant.

16 THE COURT: Okay. So 2:15. However long it takes.
17 It will be what it is and as far as the charges are concerned,
18 I will probably get -- I don't think we have to worry too much
19 about a charging conference. It will, obviously, be the same
20 charge as before. Anything else?

21 MR. DINNERSTEIN: I don't think so. Oh, there is one
22 request that deals with the charge. May I have one moment,
23 Your Honor, please? Yes, Your Honor, I sent a letter to the
24 Court on April 12 asking that -- this was an application that
25 was made at the previous trial but I wish to make it again,

1 Your Honor, asking that as to Count Three that the jury be
2 informed that there's a mandatory life sentence as to Count
3 Three.

4 THE COURT: So that request we have spoken of before.
5 I am not inclined to give that. You have your request.

6 All right. Anything else? We will see you 2:15.

7 (Court recessed for lunch)

8 (Continued on next page)

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1 **AFTERNOON SESSION**

2 (Open court.)

3 THE COURT: Yes, Mr. Goldsmith?

4 MR. GOLDSMITH: Your Honor, before lunch, Mr.
5 Dinnerstein mentioned that he wanted to speak to Mr. James.
6 We conveyed that request to Mr. James. He agreed to meet with
7 Mr. Dinnerstein with me and Agent Foy present. We had that
8 meeting.

9 THE COURT: All right.

10 MR. GOLDSMITH: Just to complete the record.

11 MR. DINNERSTEIN: Yes.

12 THE COURT: Bring in the jury.

13 (Jury present.)

14 THE COURT: Good afternoon. Let's continue now.
15 Mr. Dinnerstein, what is your pleasure?

16 MR. DINNERSTEIN: At this time the defense called
17 Shanell James to the witness stand.

18 THE CLERK: Please state your name for the record.

19 THE WITNESS: Shanell James. S-H-A-N-E-L-L
20 J-A-M-E-S.

21 SHANELL JAMES,

22 called as a witness, having been first duly sworn,
23 was examined and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. DINNERSTEIN:

1 Q Good afternoon, Mr. James.

2 Mr. James, how old are you?

3 A Thirty-six.

4 Q Where did you grow up?

5 A I grew up in Brooklyn, New York.

6 Q Did you ever live in the East Flatbush area of New York?

7 A Yes, I did.

8 Q What neighborhood did you live in?

9 A East Flatbush.

10 Q What street did you live on?

11 A Raleigh Place.

12 Q Raleigh Place?

13 A Yes.

14 Q What number Raleigh Place?

15 A 14 Raleigh.

16 Q When did you live at 14 Raleigh Place?

17 A Between 1999 and 2003.

18 Q Now, is this the area that we're talking about? This is

19 Government Exhibit 400 (Indicating.)

20 A Yes, that looks like the area.

21 Q That's it?

22 A Yes.

23 Q You have a display over there?

24 A Yes.

25 Q Can you tell us what number Raleigh Place you lived at?

1 A I lived at 14 Raleigh.

2 Q Did you live there by yourself or with other people?

3 A No, I rented a room.

4 Q Who owned the home, the house?

5 A The Innis family.

6 Q Do you know if they had a younger boy named Torrell who
7 also lived there?

8 A They had a nephew named Torrell. He didn't live there
9 but he came over occasionally during holidays, after school.

10 Q I'm going to show you a photograph, Government
11 Exhibit 115. Is this the person that you're referring to?

12 A Yes.

13 Q Now, sir, do you know the person who is sitting over
14 there?

15 A Yes, I do.

16 Q How do you know him?

17 A He was my neighbor's family.

18 Q Was he about your age or was he younger than you?

19 A No, he's very younger than me.

20 Q Did you purchase marijuana from the period of 1993 to
21 2003?

22 A Yes --

23 Q Excuse me -- 1999 to 2003?

24 A Yes, I did.

25 Q Did you ever purchase marijuana from him?

1 A No.

2 Q Who did you purchase marijuana from?

3 A Bobby, Kion, Joe, and a few of their other runners.

4 Q I'm going to just show you a few photographs. I'm going
5 to ask you to take a look at what has been introduced into
6 evidence as Government Exhibit 102.

7 Who is that?

8 A This is Bobby.

9 Q And he's one of the people you bought marijuana from?

10 A Yes.

11 Q How often would you buy marijuana?

12 A Maybe a couple of times a day.

13 Q How much marijuana would you buy?

14 A That would all depend. Sometimes I would buy for myself,
15 sometimes it would be a combination of buying for other people
16 as well.

17 Q There has been a lot of talk about different amounts of
18 marijuana, nickels, dimes, quarters?

19 A Nickels and dimes.

20 Q Who is this person, do you recognize him?

21 A Yes. Kion Jones.

22 Q Did you buy marijuana from him?

23 A Yes.

24 Q Who is this person?

25 A Joe.

1 Q Did you buy marijuana from him?

2 A Yes.

3 Q You said you also bought marijuana from some other
4 people; is that correct?

5 A Yes.

6 Q And you're certain this person was never one of the
7 people you bought marijuana from?

8 A No.

9 Q Now, sir, you said that this person -- do you know his
10 name?

11 A Anthony.

12 Q Now, did you know if Anthony lived on the block or
13 whether or not he visited his grandmother who lives on the
14 block?

15 A He visited his family.

16 Q Now, do you see his grandmother here in the courtroom?

17 A Yes.

18 Q And where is she sitting?

19 A Right there. (Indicating.)

20 Q Identifying this first woman over here?

21 A Yes.

22 Q Identifying the grandmother.

23 Did she live there the whole time that you were
24 there, from 1999 to 2003?

25 A Yes.

1 Q You would see Anthony on a regular basis during that
2 period of time; is that correct?

3 A Occasionally.

4 Q Occasionally you'd see him?

5 A Yes.

6 Q Now, you in evidence any run-ins with him, did you?

7 A No. Not at all.

8 Q Now, sir, did you ever testify for the government in a
9 previous proceeding?

10 A Yes.

11 Q Thank you.

12 MR. DINNERSTEIN: No further questions.

13 THE COURT: Any questions?

14 MR. GOLDSMITH: Briefly, your Honor, yes.

15 CROSS-EXAMINATION

16 BY MR. GOLDSMITH:

17 Q Mr. James, at some point in 2003 you were arrested?

18 A Yes.

19 Q What month was that, do you recall?

20 A May of 2003.

21 Q Where were you when you were arrested?

22 A Miami, Florida.

23 Q What were you doing there?

24 A I was coming into the country.

25 Q How long had you been out of the country?

1 A For a month.

2 Q Did you go to prison as a result of that arrest?

3 A Yes.

4 Q About how long did you spend in prison?

5 A Six years.

6 Q So just to be clear, from the day you were arrested until
7 about six years later were you out of prison at all?

8 A No.

9 Q And for a month or so before you were arrested you were
10 out of the country; is that right?

11 A Yes.

12 MR. GOLDSMITH: Nothing further.

13 THE COURT: Anything else, Mr. Dinnerstein?

14 MR. DINNERSTEIN: No, your Honor.

15 THE COURT: Thank you. You may step down.

16 (Witness excused.)

17 THE COURT: Next witness.

18 MR. DINNERSTEIN: Your Honor, at this time the
19 defense called Judy Praddy to the stand.

20 THE CLERK: Can you state your name for the record.

21 THE WITNESS: Judy Praddy.

22 JUDY PRADDY,

23 called as a witness, having been first duly sworn,

24 was examined and testified as follows:

25

1 DIRECT EXAMINATION

2 BY MR. DINNERSTEIN:

3 Q Mrs. Praddy, I'm just going to take these photographs
4 down.

5 A Good afternoon.

6 Q Can you please just state your name again.

7 A My name -- sorry?

8 Q State your name again.

9 A Judy Praddy.

10 Q How old are you?

11 A Forty-seven.

12 Q And where do you live?

13 A In Queens.

14 Q In what neighborhood in Queens?

15 A Jamaica.

16 Q What neighborhood do you live in?

17 A Jamaica.

18 Q How long have you lived in Jamaica?

19 A Quite a number of years.

20 Q Do you know this person who is sitting over there?

21 A Yes, I do.

22 Q And how do you know him?

23 A He's my son, Anthony Praddy.

24 Q How old is he?

25 A He's 23.

1 Q Now, you said that you live in Queens. Do you own a
2 house or do you rent one?

3 A We own a home.

4 Q How long have you owned the house for?

5 A One year.

6 Q And who do you own the house with?

7 A Anthony Praddy.

8 Q Where is Anthony Praddy sitting?

9 A The gentleman seated to my right, with the dark suit.

10 Q The one with the suit Ant green shirt?

11 A Correct.

12 Q Now, are you presently employed?

13 A I am.

14 Q What do you do?

15 A I'm a medical secretary.

16 Q How long have you been a medical secretary?

17 A Nine years.

18 Q How much money do you get paid?

19 A Forty-five thousand.

20 Q Do you live with anybody else?

21 A Yes, I do.

22 Q Who do you live with?

23 A Anthony Praddy, my children's father, and our three
24 children.

25 Q Your other children are not here now?

1 A Not at this moment, no.

2 Q Do you know where they are now?

3 A My daughter actually is here. She's down in the building
4 on her way up, and my son should be on his way as well.

5 Q Do they work, your children?

6 A My daughter works.

7 Q What does she do?

8 A She works in the medical field.

9 Q What?

10 A She works in the medical field.

11 Q And your other son?

12 A My other son currently is unemployed.

13 Q How old is he?

14 A Nineteen.

15 Q How old is your daughter?

16 A My daughter is 27.

17 Q Does she live with you, too?

18 A Yes, she does.

19 Q The person sitting over there, what does he do for a
20 living?

21 A Which person? Oh, okay. He's a welder.

22 Q Where does he work as a welder?

23 A He works with Sanitation, construction and welding for
24 the Department of Sanitation.

25 Q Is that the City Department of Sanitation?

1 A Yes, it is.

2 Q How long has he worked there?

3 A He's worked there for over three years.

4 Q How many years?

5 A Three years with the Department of Sanitation.

6 Q What did he do before then?

7 A He worked also in the same field but with New York City
8 Transit.

9 Q How long did he work for the New York City Transit?

10 A About nine years.

11 Q How much money does he make?

12 A Ninety thousand plus.

13 Q Pardon?

14 A Ninety thousand plus.

15 THE COURT: Do you want to identify him by name for
16 the record.

17 MR. DINNERSTEIN: Anthony Praddy.

18 THE COURT: That's the father?

19 THE WITNESS: Yes.

20 MR. DINNERSTEIN: Yes.

21 THE COURT: You live together?

22 THE WITNESS: Yes.

23 Q Do you own an automobile?

24 A Yes, I do.

25 Q And what type of automobile do you own?

1 A A Lexus.

2 Q What year is the Lexus?

3 A 2002.

4 Q Is it a new Lexus or is it a used Lexus? Did you buy it
5 new or bought it used?

6 A I bought it used.

7 Q You bought it what?

8 A Used.

9 Q I'm going to ask for you to take a look at Defendant's
10 Exhibit E for identification.

11 Can you identify that document?

12 A Yes.

13 Q What is it?

14 A It's a certificate for the purchase of the vehicle.

15 Q When did you purchase that vehicle?

16 A In 2008.

17 MR. DINNERSTEIN: I'm going to ask, your Honor, that
18 Defendant's Exhibit E for identification be introduced into
19 evidence?

20 MR. GOLDSMITH: No objection.

21 THE COURT: A certificate of title for a car?

22 MR. DINNERSTEIN: Yes.

23 May I publish to the jury.

24 THE COURT: It's in evidence. No objection.

25 (So marked.)

1 (Pause.)

2 Q You see that it indicates that the vehicle was -- the
3 certificate of title was issued in April of 2008?

4 A Yes, I do.

5 Q Mrs. Praddy, your son Anthony, does he get to drive the
6 car?

7 A Yes, he does.

8 Q Does he have a license?

9 A He has a license, yes.

10 Q And do you need the car during the day?

11 A Not all the time, no.

12 Q Did you permit Anthony to drive the car once he got a
13 license?

14 A Yes, I allowed him to drive, yes.

15 Q What?

16 A I allowed him to drive it, yes. He has my permission to
17 drive it.

18 Q Are you familiar with Raleigh Place?

19 A Yes, I am.

20 Q And this is the neighborhood of Raleigh Place?

21 A Yes.

22 Q Are you particularly familiar with the area between
23 Church and Martense?

24 A Yes, I am.

25 Q Why is that?

1 A Because I lived there for a number of years while growing
2 up.

3 Q Who did you live there with?

4 A My mom and my siblings, and my dad before he was
5 deceased.

6 Q When did your dad die?

7 A He died in 2000.

8 Q Now, your mom, do you see your mom here in court?

9 A Yes.

10 Q Where is she sitting?

11 A She's also sitting to the right, but to the left of my
12 children's father and my daughter. The lady with the beige
13 coat Ant glasses.

14 Q When did you live on Raleigh Place?

15 A I would say from the age of about, just before teen years
16 straight into maybe about two years or so after marriage, a
17 couple of years after we were married.

18 Q You say "we were married." Are you talking about with
19 the gentleman who is sitting there?

20 A Yes, I am.

21 Q Are you still married with him?

22 A Currently, no.

23 Q What has happened?

24 A We were separated.

25 Q And after the separation did you continue to live

1 together?

2 A Well, a period of time. Not the whole time, no.

3 Q So there was a time that you were separated and then you
4 got back together?

5 A Correct.

6 Q But when you got back together you did not renew your
7 marriage vows; is that correct?

8 A No, we were awaiting Anthony's return home so we can have
9 all of our children witness the marriage.

10 Q Now, ma'am, are you close to your mother?

11 A I'm very close to my mom, yes.

12 Q And how about Anthony, is he close to your mother?

13 A He is very close with my mother.

14 Q And would he visit on a regular basis?

15 A Yes, he would visit, yes.

16 Q Did there come a time when you got separated from your
17 husband that you moved back to Raleigh Place?

18 A Yes, we did.

19 Q When was that?

20 A That had to be about 2003.

21 Q Who did you move back there with?

22 A With my children.

23 Q With Anthony --

24 A Anthony, yes.

25 Q Anthony and -- is this Naomi sitting in the corner?

- 1 A Yes, that is Naomi.
- 2 Q And also the younger son, right?
- 3 A Yes.
- 4 Q What is his name?
- 5 A His name is Akim.
- 6 Q How old is he now?
- 7 A He's 19 now.
- 8 Q Now, how long did you stay living in Raleigh Place?
- 9 A It wasn't a full year. I would say about half a year.
- 10 Q Can you estimate the time that you were living there?
- 11 A I would say it was -- I know it was the winter season --
- 12 towards the end of '03, I believe -- 02, the end of '03. I'm
- 13 sorry, end of '04. It wasn't a full year. In 2003.
- 14 Q Now, did Anthony go to school?
- 15 A Yes, he did.
- 16 Q And where did he go to school?
- 17 A John Adams High School in Queens.
- 18 Q Before going to John Adams High School where did he go to
- 19 school?
- 20 A Elementary school also in Queens.
- 21 Q Where was the elementary school?
- 22 A The elementary school was in south Ozone.
- 23 Q Do you know the numbers of the schools that he went to in
- 24 Queens?
- 25 A 155.

1 Q Was that the elementary school or the junior high school?

2 A That was the elementary.

3 Q What was the junior high school?

4 A Virgil Grissom I believe is the name.

5 Q And I'm going to ask you to take a look at what has been
6 marked previously for identification as Defendant's Exhibit F.
7 Can you go through those papers and see if you can recognize
8 them.

9 (Pause.)

10 A This is from the time that he was in school.

11 (Continued next page)

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1 BY MR. DINNERSTEIN:

2 Q Is that the school records?

3 A Yes, it is.

4 Q That's the school records from the Board of Education, is
5 that correct?

6 A Yes, it is.

7 Q Now, is part of the records there his attendance record,
8 when he was in elementary school?

9 (Pause.)

10 THE COURT: Show her where.

11 You have seen these before?

12 Answer my question.

13 THE WITNESS: Excuse me.

14 THE COURT: You have seen these before?

15 THE WITNESS: Yes.

16 THE COURT: Mr. Dinnerstein will pick out the
17 attendance. You want that in evidence?

18 MR. DINNERSTEIN: I want the entire document.

19 THE COURT: Have you folks seen it?

20 MR. GOLDSMITH: Yes, your Honor.

21 THE COURT: I have not looked at it. Do you have
22 any objection to it?

23 MR. GOLDSMITH: No objection.

24 THE COURT: So the school records are in evidence.
25 Defendant's Exhibit F in evidence.

1 (So marked.)

2 Q Have you looked at these records?

3 A Yes.

4 MR. DINNERSTEIN: I'm going to publish one page of
5 this document for the jury.

6 Q Is that his attendance record?

7 A Yes, it is.

8 Q Does it also indicate where you lived at that time?

9 A Yes, it does.

10 Q Now, is that the same place that you live now?

11 A No, it isn't.

12 Q It says 115-16 125 Street, is that correct?

13 A Yes, that's correct.

14 Q When did you live there?

15 A We lived there approximately from 1992 into the time that
16 we separated and I moved back with my mom.

17 Q That would have been in 2003?

18 A 2003, correct.

19 Q So these are the records when he attended School 155 in
20 Queens, is that correct?

21 A Yes.

22 Q Does it indicate the number of absences he had and can
23 you just point on the screen as to where it shows the number
24 of absences?

25 A This column here.

1 Q And does it also indicate the number of times that he was
2 late?

3 A The column underneath.

4 Q What?

5 A The column underneath the absent column.

6 Q And it also indicates on the top that for a short period
7 of time he went to Catholic school, is that correct?

8 A Yes.

9 Q Where is that?

10 A In Queens.

11 Q Where on the piece of paper?

12 A I'm sorry. Can you repeat the question? I'm not sure I
13 quite understand.

14 Q Is there an indication on this form that he attended
15 Catholic school? Look at the top.

16 A Yes.

17 Q Point to that?

18 A Yes.

19 Q There you go?

20 Now, at some point he was promoted out of this
21 school, is that correct.

22 A Correct.

23 Q A that would have been in the sixth grade?

24 A Yes.

25 Q And he then went to a different school, is that correct?

1 A I went to a different school good.

2 Q What school did he go to then?

3 A He went to Virgil Grissom.

4 Q Now, are these additional school records when he went to
5 a different school?

6 A Yes, it is.

7 Q Do you see where it indicates that he attended a school
8 -- is it 820 that he attended or 226 Q?

9 A 226 Q.

10 Q That would be this Virgil Grissom?

11 A Yes.

12 Q And it also indicates the number of times he was present
13 and absent when he attended that school?

14 A Yes.

15 Q And how many times was he absent in the year I guess
16 2000?

17 A No absences.

18 Q Well, in 2000 there's nothing that's indicated?

19 A No, nothing indicated.

20 Q How about the year below?

21 A The year below, nothing indicated.

22 Q I'm talking about the fourth line, the one that says 601.

23 A Yes. It indicates absences ten.

24 Q That he was absent ten times?

25 A Yes.

1 Q Now, do you know where your son was on May 26 of 2004?

2 A Yes, I do.

3 Q How do you know this?

4 A Well, I have notebooks.

5 Q What do you mean you have notebooks?

6 A Of his records. I would keep notebooks and mementos of
7 his work and progress Ant books.

8 Q Where was he on May 26 of 2004?

9 A He was in school.

10 Q I show you what has been marked for identification as
11 Defendant's Exhibit G. Can you tell us how you know that he
12 attended school on May 26 and May 27 of 2004?

13 A Okay. He has notes here and I'm going by the dates.
14 These are the previous notes, previous to those dates. Here
15 are his notes from those particular dates.

16 Q Are you looking at May 26 and May 27 of 2004?

17 A Yes.

18 Q Is that notebook in Anthony's handwriting?

19 A Yes. This is his handwriting.

20 Q Where were you able to find that notebook?

21 A In my collection of notebooks that I keep for him.

22 Q Why did you find this notebook, this particular notebook?

23 A It relates to this case.

24 Q Did I ask you to find the notebook?

25 A Anything pertaining to his case, yes, because I hold on

1 to his notes and I know I would have information concerning
2 this.

3 MR. DINNERSTEIN: At this time, your Honor, I would
4 ask that Defendant's Exhibit G be introduced into evidence.

5 MR. GOLDSMITH: Can I have a brief voir dire on
6 that, your Honor.

7 THE COURT: Go ahead.

8 MR. GOLDSMITH: Thank you, your Honor.

9 THE COURT: The purpose of a voir dire is to just
10 give counsel the opportunity to check on the authenticity of
11 the document. Let's see what happens. Go ahead.

12 VOIR DIRE EXAMINATION

13 BY MR. GOLDSMITH:

14 Q Mrs. Praddy, I'm going to show you what is the first page
15 that is dated May 24, 2004.

16 A Okay.

17 Q In the middle of the page here there's this print
18 handwriting?

19 A Yes.

20 Q Is that your son's handwriting?

21 A It seems to be, yes.

22 Q Up at the top of the page there's this cursive
23 handwriting; whose handwriting is that?

24 A It seems to be his as well.

25 Q Those are both his handwritings?

1 A Yes.

2 MR. GOLDSMITH: Nothing further, your Honor. No
3 objection to the document.

4 THE COURT: So you recognize his handwriting in
5 whatever shape or form it's in, correct?

6 THE WITNESS: I think I should, yes.

7 THE COURT: You do?

8 THE WITNESS: Yes.

9 THE COURT: She does. It would be in evidence.
10 She's identified it.

11 (So marked.)

12 DIRECT EXAMINATION

13 BY MR. DINNERSTEIN: (Continued)

14

15 Q Now, this date indicates May 26, is that correct?

16 A Yes, it does.

17 Q How do you know it's 2004?

18 A Because it's -- the other pages previous to that as well
19 as behind it is 2004.

20 Q For instance, the first page of the book has the year, is
21 that correct?

22 A Correct.

23 Q You said he attended John Adams High School, is that
24 correct?

25 A Yes, it is.

1 Q Where exactly is John Adams High School?

2 A That's considered Ozone Park area of Queens.

3 Q Now, in 2004 did Anthony have a driver's license?

4 A 2004, he should have. I have to calculate his age. But
5 he should have.

6 Q Did he have access to an automobile in 2004?

7 A Not my automobile.

8 Q If he had an automobile it was not yours, is that
9 correct?

10 A Correct.

11 Q Now, he attended school on May 26, is that correct, based
12 on these records?

13 A Yes, on the records.

14 Q And he also attended school on May 27, is that correct?

15 A Yes.

16 Q Now, you said that you collected his notebooks, is that
17 correct?

18 A Yes.

19 Q Did I ask you to try to locate his notebooks?

20 A Yes.

21 Q Did you keep the notebooks over the years when he
22 attended school?

23 A Yes.

24 MR. DINNERSTEIN: I'm going to do this all at once,
25 judge, to speed things along.

1 Q This is Defendant's Exhibits H, I, J, K, L, M, N, O, P
2 and Q.

3 THE COURT: What are all of those?

4 MR. DINNERSTEIN: Those are all notebooks.

5 THE COURT: Well, you folks have probably seen these
6 or you know about them. Do you have any objections?

7 MR. GOLDSMITH: No, your Honor.

8 THE COURT: We'll have them all in evidence at this
9 time. These are H through what, Mr. Dinnerstein?

10 MR. DINNERSTEIN: Q I believe.

11 Q What's the last one?

12 A Q.

13 THE COURT: H, I, J, K, L, M, N, O, P and Q, all of
14 those?

15 MR. DINNERSTEIN: Yes.

16 THE COURT: In evidence.

17 (So marked.)

18 Q Mrs. Praddy, what are those?

19 A These are some of Anthony's notebooks.

20 Q When you say some, does that mean you don't know where
21 all of them are?

22 A Yes.

23 THE COURT: Yes, you know where all of them are or
24 these are all of them?

25 THE WITNESS: No. These are not all of them.

1 THE COURT: These are some of them?

2 THE WITNESS: These are some of them.

3 Q Do you know where the rest of the notebooks are?

4 A The ones that I saved; I didn't hold on to every single
5 one. The ones that I saved should be at home.

6 MR. DINNERSTEIN: Thank you, Mrs. Praddy. I don't
7 have any other questions.

8 THE COURT: Mr. Goldsmith or Mr. DuCharme, do you
9 have any questions?

10 MR. GOLDSMITH: No, your Honor.

11 THE COURT: You may step down.

12 (Witness excused.)

13 THE COURT: Next witness.

14 MR. DINNERSTEIN: At this time, the defense calls
15 Anthony Praddy to the stand.

16 A N T H O N Y P R A D D Y,

17 having been duly sworn was examined and

18 testified as follows:

19 THE CLERK: State your name.

20 THE WITNESS: Anthony Praddy.

21 DIRECT EXAMINATION

22 BY MR. DINNERSTEIN:

23 Q Can I call you Anthony?

24 A Yes.

25 Q You have to talk into the microphone. Okay?

1 A Yes.

2 Q You have to talk a little louder.

3 A Yes. Yes.

4 Q Tell us what your name is again.

5 A Anthony Joseph Praddy.

6 Q Have you ever used any other name?

7 A No.

8 Q And how old are you?

9 A I'm 23.

10 Q What's your birth date?

11 A September 11, 1987.

12 Q What year were you born? I'm sorry.

13 A September 11, 1987.

14 Q Don't have your voice drop. Speak so that everybody can
15 hear you.

16 THE COURT: You can move the microphone a little
17 closer to you if you would like.

18 Q Where do you live?

19 A Currently in Queens Basin.

20 Q Who do you live with?

21 A My father, my mother, my sister, my brother.

22 Q Do you see some of those people here in court?

23 A Yes.

24 Q Where are they sitting?

25 A To the right; to the right.

1 Q Identifying your mother, the father Ant sister?

2 A Yes.

3 Q What's that neighborhood called that you live in with
4 your family?

5 A I believe it's Queens Basin or Jamaica. I lived in Ozone
6 Park and Richmond Hill. It is like on the borderline.
7 Jamaica, off of Rockaway Boulevard.

8 Q By the way, where do you get your haircut?

9 A On Rockaway Boulevard and Lincoln Street in front of the
10 nine bus stop.

11 Q Do you know the name of barbershop?

12 A No. I don't remember the name. But it's right across
13 the street from PS 96 and this is the nine bus stop, the first
14 stop on the nine. That bus goes to Jamaica Avenue Terminal.

15 Q Did you ever get your hair cut at Stylz Barbershop?

16 A No.

17 Q Are you familiar with the area around Raleigh Place?

18 A Yes.

19 Q Why are you familiar with that neighborhood?

20 A My grandmother lives there.

21 Q Do you see your grandma here in court?

22 A Yes.

23 Q Where is she sitting?

24 A Next to my mother.

25 Q Did you ever live on Raleigh Place?

1 A In 2003 and I guess when I was first born, before we went
2 to Queens in '92.

3 Q In 2003 why did you live there?

4 A We were staying there until we found a place which was
5 103-17 Lefferts Boulevard.

6 Q Now, when you say we, who went to live on Raleigh Place?

7 A Myself, my mom, my sister, my brother.

8 Q What about your father, where did he live?

9 A He lived on the borderline of Queens and Brooklyn like on
10 Atlantic Avenue in the Rockaways.

11 Q Did you ever shoot anybody in that area?

12 A No.

13 Q Did you ever shoot anybody on May 26, 2004?

14 A No.

15 Q Did you ever shoot a person named Belize?

16 A No.

17 Q Do you know who Belize is?

18 A I learned about him in this case.

19 Q Did you know him from 2004?

20 A No.

21 Q I'm going to show you a photograph. In 2004 had you ever
22 had any encounters with this fellow?

23 A No.

24 Q Take a look closely.

25 THE COURT: Identify what you are showing him.

1 MR. DINNERSTEIN: Government's Exhibit 110.

2 Q Did you ever have any run-ins with him in 2004?

3 A No.

4 Q Did you ever shoot him?

5 A No.

6 THE COURT: Did you ever see that picture before?

7 THE WITNESS: Yes, the first time at the trial.

8 THE COURT: First time here?

9 THE WITNESS: First time before.

10 THE COURT: The first time you saw it it was in
11 court, right?

12 THE WITNESS: First trial.

13 Q Now, do you know people who live in that neighborhood?

14 A Yes.

15 Q And how come you know the people who live in the
16 neighborhood?

17 A My grandma's next door neighbors, kids off Raleigh Place.

18 Q How often would you visit Raleigh Place when you were a
19 kid growing up?

20 A Holidays of course and occasionally on the weekends,
21 certain weekends, I would go down there and stay.

22 Q I'm going to ask you to take a look at this photograph,
23 Government's Exhibit 100?

24 THE COURT: Government's Exhibit 100.

25 Q Who is that person?

1 A Kion, Kyle's older brother.

2 Q How old is Kion?

3 A About early 30's.

4 Q Is Kion a friend of yours?

5 A Yes.

6 Q And you say somebody's older brother, whose older brother
7 is he?

8 A Kyle.

9 Q How old is Kyle?

10 A My age.

11 Q I'm going to ask you to take a look at what's been marked
12 for identification as Government's Exhibit 117. Can you
13 recognize Government's Exhibit 117?

14 A Yes.

15 Q Who is that?

16 A Kyle.

17 Q And how old is Kyle about?

18 A 24 now.

19 Q You have to talk up?

20 A 24 now.

21 Q And is that what Kyle looks like?

22 A Yes.

23 MR. DINNERSTEIN: Your Honor, at this time I would
24 ask that Government's Exhibit 117 be introduced into evidence.

25 MR. DuCHARME: No objection.

1 THE COURT: In evidence at this time.

2 (So marked.)

3 Q And Kyle and Kion are brothers, is that correct?

4 A Yes.

5 Q Do you know about how old Kion is?

6 A 31.

7 Q How much?

8 A About 31.

9 Q Now, do you know if Kion sells marijuana?

10 A Yes.

11 Q Do you know if Kyle sells marijuana?

12 A He don't sell marijuana.

13 Q Now, I'm going to show you a photograph of Government's
14 Exhibit 101.

15 A Joe.

16 Q Do you know who Joe is?

17 A Yes.

18 Q Who is Joe?

19 A I know him off of Raleigh Place.

20 Q Do you know whether Joe sells marijuana?

21 A Yes.

22 Q Have you ever seen Joe with a weapon?

23 A No.

24 Q I'm going to ask you to take a look at Government's
25 Exhibit 102.

1 A Bobby.

2 Q Who is Bobby?

3 A Know him from Raleigh Place.

4 Q What do you know about Bobby?

5 A He sells weed on Raleigh.

6 Q Did you ever sell weed or marijuana for Bobby?

7 A No.

8 Q Were you ever part of any group with Bobby?

9 A No.

10 Q I'm going to ask you to take a look at Government's
11 Exhibit 106.

12 A That's Charles.

13 Q What?

14 A Charles.

15 Q And how do you know Charles?

16 A Raleigh Place.

17 Q What does Charles do, do you know?

18 A No.

19 Q Do you know whether he's involved in selling marijuana?

20 A He wasn't around; so, not to my knowledge. But I know
21 him from Raleigh Place.

22 Q Did you know where he was?

23 A Jail.

24 Q I'm going to ask you to take a look at Government's
25 Exhibit 107.

1 A Josh.

2 Q How do you know Josh?

3 A Raleigh Place.

4 Q And what did Josh do?

5 A I don't know. He's an older guy, mid-30's. He should be
6 in his mid-30's about now. So he would be on Raleigh Place.

7 Q Are you a friend of his?

8 A Not a friend, but I know him. I know his face.

9 Q Did he have a nickname?

10 A White Boy.

11 Q I'm going to show you what's been introduced into
12 evidence as Government's Exhibit's 108?

13 A Dre.

14 Q How do you know Dre?

15 A From the area of Raleigh Place.

16 Q What did Dre do?

17 A Sold marijuana.

18 Q Did you ever sell marijuana with Dre?

19 A No.

20 Q Did you ever hang out with him?

21 A No.

22 Q About how old is Dre?

23 A He's like 34.

24 Q What?

25 A 34.

1 Q Did you hear what Dre testified to?

2 A Yes.

3 Q Is that true?

4 A No.

5 Q Let me ask to take a look at Government's Exhibit 109.

6 Do you know who is pictured in Government's Exhibit 109?

7 A D, Devon.

8 Q What?

9 A D, Devon.

10 Q How do you know D or Devon?

11 A Raleigh Place.

12 Q Do you know what Devon was involved in?

13 A I would say he sold marijuana, yes.

14 Q How old is Devon?

15 A Early 30's now, should be.

16 Q You got to speak up.

17 A Early 30's now.

18 Q Okay?

19 I'm going to ask you to take a look at Government's

20 Exhibit 111.

21 A That's me.

22 Q Okay?

23 I'm going to ask you to take a look at what's been

24 introduced into evidence as Government's Exhibit 112. Do you

25 know that person.

1 A Lindsey, my cousin.

2 Q How old is Lindsey about now?

3 A 25.

4 Q How tall is Lindsey?

5 A Five-five, five-six.

6 Q Does Lindsey live on Raleigh Place?

7 A No.

8 Q Does he visit Raleigh Place?

9 A Yes.

10 (Continued on next page.

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1 DIRECT EXAMINATION (Cont'd)

2 BY MR. DINNERSTEIN:

3 Q And who does he visit when he visits Raleigh Place?

4 A His grandmother.

5 Q And how often would he come to visit his grandmother?

6 A I don't know. I don't know. He come. He live in Brooklyn
7 so he could come more than I could come because I'm coming
8 from Queens.

9 Q How many times have you seen Lindsey at your
10 grandmother's house?

11 A He lived in the area, so not too far, he could walk.
12 It's walking distance.

13 Q How many times have you and Lindsey visited your
14 grandmother at the same time?

15 A Lot of times.

16 Q Now, on May 26, 2004 was Lindsey with you?

17 A No.

18 Q Did you own a bicycle on May 26, 2004?

19 A No.

20 Q Did you ride a bicycle with Lindsey?

21 A No.

22 Q Do you know where Lindsey was on May 26th, 2004?

23 A No.

24 Q I'm going to ask you to take look at what's been
25 introduced into evidence as Government Exhibit 115.

1 A Torell.

2 Q How do you know Torell?

3 A He lived next door.

4 Q Did he live next door or did he live with people who
5 lived next door, do you know.

6 A His aunt lives next door, so he would visit. He would
7 come on Raleigh Place.

8 Q By the way, did you know whether or not Lindsey ever sold
9 marijuana?

10 A Yes.

11 Q And how did he sell marijuana, did you notice know how?

12 A I don't know how but I mean he sold marijuana.

13 Q Where did he sell marijuana?

14 A In and around Raleigh Place.

15 Q How often did he sell marijuana?

16 A I am not sure. I can't tell how often. I wasn't with him
17 all the time. Not everyday.

18 Q Did he tell you that he sold marijuana?

19 A Yeah.

20 Q Government Exhibit 115, did this person sell marijuana?

21 A Yes.

22 Q Were you friends with him?

23 A Yes.

24 Q I'm going to ask you to take at a look at what's been
25 marked Government Exhibit 113.

1 A Yes.

2 Q And who is Darren?

3 A He's my cousin.

4 Q And where does he live?

5 A 16 Raleigh Place.

6 Q 17 Raleigh Place?

7 A Yes.

8 Q Why doe he live there?

9 A He lives there with my grandmother.

10 Q Where is Darren's mother?

11 A Past away.

12 Q When did she pass away?

13 A I am not sure. I don't remember.

14 Q How long has Darren been living with his grandmother?

15 A His whole life.

16 Q Do you know where Darren's father is?

17 A I don't know where he is but I seen him a few times.

18 Q How many times have you seen Darren's father?

19 A If he come by the house to see Darren.

20 Q You have to speak so people can hear you.

21 A He comes by the house to see Darren. Come to visit him.

22 Q Do you know if Darren ever lived with his father?

23 A No. Lived with my grandmother.

24 Q I'm going to ask you to take a look at what's been

25 introduced into evidence as Government Exhibit 120?

1 A Rondu.

2 Q How do you know Rondu?

3 A From Raleigh, in the area.

4 Q Did you have any contact with Rondu?

5 A Yes.

6 Q And what was your contact with Rondu?

7 A Sold him marijuana.

8 Q When did you sell him marijuana?

9 A On the tapes in 2007-2008, and before that.

10 Q When before that you did sell him marijuana?

11 A 2005-2006.

12 Q How many times did you sell Rondu marijuana in 2005-2006?

13 A I don't remember how many times I sold him marijuana but
14 I sold him good amount of times, 15, 20 times over the years.

15 Q Anthony, you sold marijuana in your past; is that
16 correct?

17 A Yes.

18 Q And about much marijuana do you think you've sold in your
19 life?

20 A I never really added it up but I sold ounces, two ounces.

21 Q What would be the most you ever sold at one time?

22 A Two, three. About three ounces. Three ounces.

23 Q How much would you sell three ounces for?

24 A \$300.

25 Q Where did you sell marijuana?

1 A Raleigh Place, Church, in Flatbush area.

2 Q And did you ever sell marijuana to the two people who
3 worked in the candy store?

4 A Yes.

5 Q And how often would you sell marijuana to those people?

6 A If they would call me I'd come and bring them the
7 marijuana once a week. Probably twice a week.

8 Q And how much marijuana would they buy when they bought
9 marijuana once or twice a week?

10 A Quarter ounce, \$25.

11 Q Now, tell us if there was a time that you ran into Abdo.
12 Let me rephrase the question.

13 MR. DINNERSTEIN: Excuse me, Your Honor(perusing).

14 Q (Cont'd): When you were selling marijuana what was the
15 period of time that you sold marijuana from?

16 A In 2003 'til 2009.

17 Q Tell the Ladies and gentlemen of the jury how you would
18 sell marijuana?

19 A I would sell nickel, dime, quarter of ounce, half ounce,
20 an ounce.

21 Q Did you sell marijuana by standing on the street corners
22 or did you sell marijuana --

23 A Somebody call me I would sell marijuana, or if I happen
24 to be walking and I bumped into somebody and I have them, I
25 sold it to them in the past I would sell to them.

1 Q Did you walk on the treats with marijuana in your pocket?

2 A No.

3 Q Where did you keep your marijuana?

4 A I would keep it in the -- put way somewhere. I wouldn't
5 hang it on my person. I'd keep it put away somewhere.

6 Q When you say "somewhere" where do you mean?

7 A In the house. When I went in the house I would probably
8 have it in the bag or hoody or something like that.

9 Q "In the house" would be your grandmother's house; is that
10 correct?

11 A Yes.

12 Q And about how much marijuana would you have in your
13 grandmother's house?

14 A Ounce. Could be two ounces, maybe.

15 Q Would it ever be as much as a half pound?

16 A No.

17 Q Why not? Why wouldn't it ever be a half pound?

18 A I in evidence -- I never bought a half -- half pound and
19 have it. I would just if somebody called me and they wanted
20 it, I would get the ounce. Sometimes I try to get it if I
21 have it with me but --

22 Q Now, did there come a time more recently that you ran
23 into Abdo?

24 A Yes.

25 Q And where was that that you ran into him?

1 A Rego Park, Queens.

2 Q And why were you in Rego Park, Queens?

3 A Taking a census test at the Church.

4 Q What do you mean a census test?

5 A You count the number of people in the household.

6 Q Okay. So that would be the U.S. Census?

7 A Yes.

8 Q And before getting that job you would have to take a test
9 to get it; is that correct?

10 A Yes.

11 Q And I'm going to ask you to take a look at what has been
12 marked for identification as Defendant's Exhibit R (handing to
13 the witness)?

14 Can you identify what Defendant's Exhibit R is?

15 A Results of the census test in Rego Park.

16 Q When did you take that census test?

17 A It would be 2010.

18 Q Okay. Were you ever able to work as a census worker?

19 A No.

20 Q Why not?

21 A Because of the case.

22 Q Now, is the census results -- excuse me -- Defendant's
23 Exhibit R for identification -

24 THE COURT: Any objection?

25 MR. GOLDSMITH: No objection.

1 THE COURT: In evidence.

2 (Defendant Exhibit R received and marked in
3 evidence)

4 Q Is this the document that indicated you got a 75 on the
5 test?

6 A Yes.

7 Q Now, when you spoke to Abdo did you sell him any
8 marijuana that day?

9 A No.

10 Q Did you talk about -- were you surprised to see him?

11 A Yes.

12 Q And why is that?

13 A The only time I saw him was in Brooklyn.

14 Q You purchased marijuana to sell; is that correct?

15 A Yes.

16 Q Now, who did you purchase the marijuana from that you
17 sold? You have to talk so people can hear you.

18 A The videotape, the guy I purchased from, I was purchasing
19 it from him.

20 THE COURT: What was his name?

21 THE WITNESS: Spade.

22 THE COURT: Spade?

23 THE WITNESS: Yeah.

24 A I was purchasing it from. I bought marijuana before from
25 Joe, I purchased marijuana from Bobbie a few times, and I

1 purchased marijuana from a guy on Franklin and Beverly by the
2 car wash.

3 Q Now, you say you purchased marijuana from Joe and Bobbie?

4 A Yes.

5 Q And how many times did you purchase marijuana from Joe
6 and Bobbie?

7 A Three times together. Both of them, I don't know, about
8 ten times, like four, five times each.

9 Q Why did you buy from them on a regular basis?

10 A Well, you could get it cheaper. I got it cheaper from
11 the guy on the videotape, so I bought from him.

12 Q So Bobby and Joe sold you a few times, but their prices
13 were higher than this guy that's on the videotape; is that
14 correct?

15 A Yes.

16 Q Now, did anyone say anything to you about selling
17 marijuana that wasn't being purchased from Bobbie or Joe?

18 A No.

19 Q Did anyone complain to you at any time about where you
20 were getting you marijuana from?

21 A No.

22 Q Tell us how you make money selling marijuana?

23 A From selling ounce. I sell a whole ounce together.

24 Q Talk loud enough so people can hear you.

25 A If I am selling an ounce, I would sell the whole ounce

1 together. If I am bagging it up I would bag it up in dimes,
2 so you get -- you would get 15 dimes out of an ounce, that
3 would be \$150 profit. If I am selling the whole ounce, I
4 would just take out some and sell the ounce. Take out couple
5 of grams and sell the ounce.

6 Q When you say "take out" do you mean sell short?

7 A Yes.

8 Q Now, how many grams are in an ounce, do you know that?

9 A Twenty-eight.

10 Q And if you sold somebody, let's say, 28 grams, you'd be
11 able to keep the other three grams and sell them somewhere
12 else; is that correct?

13 A Yes.

14 Q And is that what you would do when you sell, say, to
15 McQuilkin, you would give him a little bit less than he thinks
16 he's getting?

17 A Yes.

18 Q Now, let's talk a little bit about the marijuana sales?

19 THE COURT: We are going to take our break now. Will
20 resume in ten minutes. Don't talk about the case.

21 THE CLERK: All rise.

22 (Whereupon, the jury exited the courtroom)

23 (Court recessed)

24 (Continued on next page)

25

1 (Open court.)

2 THE COURT: How much longer do you have? You're not
3 going to be rushed.

4 MR. DINNERSTEIN: I don't know if I'll be finished
5 by 4:30. I don't think the cross will be done. He'll be back
6 tomorrow.

7 THE COURT: You're telling me you're going to use
8 the rest of the time?

9 MR. DINNERSTEIN: Yes, your Honor.

10 (Jury present.)

11 THE CLERK: You may all be seated.

12 THE COURT: Continue, Mr. Dinnerstein.

13 BY MR. DINNERSTEIN:

14 Q We saw on the tape that you sold marijuana to
15 Mr. McQuilkin on a number of occasions; is that correct?

16 A Yes.

17 Q Before selling any marijuana to Mr. McQuilkin did there
18 come a day that you ran into him?

19 A Yes.

20 Q Was it on Church Avenue?

21 A Yes.

22 Q I'm not going to show the vidio again, but there was a
23 time that you went into a store; is that correct?

24 A Yes.

25 Q And which store was that?

1 A Candy store, a little candy store.

2 Q What was the reason that you went into the store on that
3 occasion?

4 A I don't remember. I think I went in the store. I walked
5 in the store.

6 Q Do you know about what time it was that you went into the
7 store on that day?

8 A It was like afternoon time.

9 Q Do you remember having a conversation with McQuilkin?

10 A Yeah, I saying something. It look like it was
11 something --

12 THE COURT: I can't hear a word you're saying.

13 THE WITNESS: It looked like I say hello to him,
14 What's up?

15 Q Did he make any mention on that day of wanting to buy
16 marijuana from you?

17 A I'm not sure. He might have. I'm not sure.

18 Q When was the next time you ran into McQuilkin?

19 A The one when I got the blue shirt on, my --

20 Q There was a time, the first time that you sold marijuana
21 to Mr. Praddy -- excuse me, to McQuilkin, right?

22 A Yes.

23 Q Would you please speak up. Okay?

24 THE COURT: You want to take a break?

25 THE WITNESS: I just took a break.

1 THE COURT: You have to speak louder.

2 THE WITNESS: All right.

3 THE COURT: Is that how you normally speak?

4 THE WITNESS: Yeah.

5 THE COURT: That's now you normally speak. Go
6 ahead.

7 Q Move the microphone. Talk into the microphone.

8 A I'm talking.

9 Q You ran into him on October 16th; is that correct?

10 A Yes.

11 Q We saw that on the vidio; is that right?

12 A Yes.

13 Q Where did you run into him?

14 A Looks like on the corner of Church, Raleigh, Church and
15 Raleigh.

16 Q Do you know where you were going on that day?

17 A I think I was walking in the direction of Nostrand. I
18 was on Church Avenue, I went headed in this direction towards
19 Nostrand. I don't remember where I was going exactly, but I
20 was heading to Nostrand direction.

21 Q Did you have any marijuana on you when you were walking
22 towards Nostrand Avenue on that day?

23 A No.

24 Q Did he ask you for anything?

25 A Yes.

- 1 Q What did he ask you for?
- 2 A A quarter.
- 3 Q A quarter -- what does a quarter mean to you?
- 4 A A quarter ounce of marijuana.
- 5 Q And what did you do after he asked you for a quarter
- 6 ounce?
- 7 A I went back around the corner and I got it.
- 8 Q Did you go with McQuilkin?
- 9 A Yes. He walked.
- 10 Q What?
- 11 A Yes, he walked. He walked with me around the corner.
- 12 Q Did you go into your house?
- 13 A Yes. My grandmother.
- 14 Q Actually you went into your grandmother's house, right?
- 15 A Yes.
- 16 Q Did you get anything from your grandmother's house?
- 17 A Yes.
- 18 Q What did you get?
- 19 A Two quarters.
- 20 Q How much does two quarters cost?
- 21 A Fifty dollars, 25 for one.
- 22 Q Talk louder.
- 23 A Fifty dollars, 25 for one.
- 24 Q And then what happened?
- 25 A I gave him my number I believe and that was it. Oh, he

1 asked me can I get -- can he get a quarter pound. How much a
2 quarter pound would be. That was it. I gave him my number.

3 Q Was it a quarter of a pound or a half pound that he asked
4 for?

5 A Quarter -- half a pound, quarter pound.

6 Q Were you able to get him a half a pound of marijuana?

7 A No.

8 Q Did you tell him that you would be able to get him -- get
9 it?

10 A I gave him a price for it. I probably could get it. I
11 gave him a price for it.

12 Q Did you ever get him a half a pound of marijuana?

13 A No.

14 Q Did he ever ask you again for a half pound?

15 A No.

16 Q Did you think you would have been able to get a half a
17 pound of marijuana if he had asked for it?

18 A Yes. Maybe.

19 Q How would you have raised the money to get the half a
20 pound of marijuana?

21 A I wouldn't -- I mean, I could get it. You know, like how
22 you see on the vidio.

23 Q You would have been able to buy a half a pound?

24 A I wouldn't buy it, but I could -- if he would gave me the
25 money up front, take it to the guy, you know, get the half a

1 pound from him and give it to McQuilkin if he give me the
2 money.

3 Q There were other times that you sold -- you had sold
4 McQuilkin marijuana; is that correct?

5 A Yes.

6 Q And now before each of the sales did he call you or did
7 he just drop by?

8 A He called me or maybe he could have been walking in the
9 area. He called me on the cells, though.

10 Q When he called you, this is the cellphone number that you
11 had given him; is that correct?

12 A Yes.

13 Q Now, was there -- where were you when you received these
14 phone calls?

15 A Queens.

16 Q Were you on Raleigh Place when you received the phone
17 calls?

18 A No.

19 Q And what were you doing when you received the phone
20 calls?

21 A I don't remember what I was exactly doing. But -- I
22 wasn't around. I know I was in Queens. I could have been at
23 school another time. I don't exactly recall exactly where I
24 was at.

25 Q When he called, what did you say to him?

1 A Depending on what he said to me.

2 Q What did he say to you?

3 A One time, What's going on? Can I get an ounce?

4 Q Were you able to get him an ounce?

5 A Yes.

6 Q Now, how would you get from where you were to Raleigh
7 Place those times?

8 A In 2008 and 2009, I would --

9 Q How about in 2007, how would you get there?

10 A I get on the bus Ant train.

11 Q How long would it take you to take -- get on the bus Ant
12 train?

13 A About an hour and a half.

14 Q And after the hour and a half you would show up on
15 Raleigh Place; is that correct?

16 A Yes.

17 Q And where would you get the marijuana from?

18 A The guy on the vidio. Yeah, the guy on the vidio.

19 Q In 2007 you would buy it from the guy on the vidio?

20 A Yes.

21 Q Did you have to go and pick up the marijuana before you
22 came Raleigh Place?

23 A Sometimes.

24 Q Sometimes -- what about other times?

25 A Sometimes I have it.

1 Q And "have it" would mean that you would have it in 16
2 Raleigh Place?

3 A Yes.

4 Q Now, did it sometimes take you a long time to get from
5 where you were to Raleigh Place to sell the marijuana to
6 McQuilkin?

7 A Yes.

8 Q How long would it take you approximately?

9 A Couple of hours sometimes.

10 Q Now, were there a couple of times that you actually
11 didn't show up at all; is that correct?

12 A Yes.

13 Q And those times did you receive phone calls from
14 McQuilkin?

15 A Yes.

16 Q What did McQuilkin say to you?

17 A Basically, he called me. He wanted marijuana. He kept
18 on calling me, rushing me he wanted marijuana, but I wasn't
19 around, so on one of the tapes he bumped into my cousin and he
20 called -- spoke to him and he told him call Bird, I just spoke
21 to him. So I think -- I think Dee probably called me or
22 McQuilkin -- yeah, I spoke to him --

23 Q When you say Dee, who do you mean?

24 A Darren.

25 Q And Darren is the person who lives with your grandmother,

1 right?

2 A Yes.

3 Q Did you have a conversation with Darren?

4 A Yes.

5 Q What was the nature of the conversation that you had with
6 Darren?

7 A Get the marijuana.

8 Q Where was the marijuana, did you tell Darren where the
9 marijuana was?

10 A Yes.

11 Q Where was the marijuana?

12 A In the house.

13 Q And how much marijuana did McQuilkin want on that
14 occasion, do you remember?

15 A An ounce.

16 Q Did Darren make that sale at that time?

17 A Yes.

18 Q Let's talk about where you were on May 26th of 2004. Do
19 you remember?

20 A I was in school.

21 Q How do you know that?

22 A School records.

23 Q What did you say?

24 A My school records.

25 Q Is it your record or your notebook?

1 A Both. Notebook Ant records.

2 Q I'm going to ask you to take a look at what has been
3 introduced into evidence as Defendant's Exhibit G.

4 Does it indicate whether you attended school on
5 May 26th of 2004?

6 A Yes.

7 Q Did you attend?

8 A Yes.

9 Q Where were you going to school?

10 A John Adams High School.

11 Q Where is John Adams High School?

12 A Rockaway Boulevard between 101 and 102 Street.

13 Q How do you get to the school?

14 A Take the 41 or the -- Q41 or the Q7.

15 Q How long does it take you to get to school from your
16 house?

17 A Not too long. 15 minutes, 15, 20 minutes. From 15 --
18 the 7, about 20, 25 minutes on the 103rd.

19 Q What was the time that you were going to school?

20 A At 12 to 5, 5:15.

21 Q Was John Adams a school that had two sessions?

22 A Yes. An early session from 7 to 12 Ant later session was
23 12 to 5.

24 Q And you were the late session?

25 A Yes, my first year I was in the early session Ant second

1 year I was in the late session.

2 Q How about in 2004, were you in the early session on the
3 late session?

4 A Late session.

5 Q If you were going to go from that house -- I'm sorry,
6 from school to your grandmother's house, how would you get
7 there?

8 A Walk to the -- down by the White Castle, walk to the end,
9 go to the train. Get on the A train and then take the A train
10 to Nostrand Avenue and get on the 44 bus.

11 Q How long would it take you to get from your school on --
12 at John Adams High School to your grandmother's house on
13 Raleigh Place?

14 A About an hour, hour and a half.

15 Q Now, do you know where you were on the evening of May 26,
16 2004?

17 A Yeah. I was in school.

18 Q After school.

19 A I probably was home.

20 Q Did you go to Raleigh Place in the evening?

21 A No.

22 Q That was actually during the week; is that correct?

23 A Yes.

24 Q Did you attend school on May 27th?

25 A Yes.

1 Q How do you know that?

2 A School records Ant notebook.

3 Q Is this the notebook for May 27th?

4 A Yes.

5 Q Is it?

6 A Yes.

7 Q What time were you attending school on May 27th?

8 A From 12 to about 5, 5:15.

9 Q Did you learn that there was a murder on Church Avenue?

10 A Yes.

11 Q When did you learn about that?

12 A I'm not sure exactly around that time.

13 Q I'm going to show you just as a group, this is

14 Defendant's Exhibits H through Q.

15 A Yes.

16 Q Are these additional notebooks that you used when you
17 were a student?

18 A Yes.

19 Q Where were you a student?

20 A John Adams, Erasmus for a semester, and I went to Jamaica
21 High School night school, too.

22 Q You said you went to --

23 A Jamaica High School night school, and I did a semester at
24 Erasmus.

25 Q Why did you go to night school?

1 A To make up my classes.

2 Q You said you went to Erasmus Hall High School; is that
3 correct?

4 A Yes.

5 Q When did you go to Erasmus Hall High School?

6 A Summer 2003.

7 Q Where were you living in 2003?

8 A On Raleigh, at my grandmother's.

9 Q I'm going to ask you what has been marked for
10 identification as Defendant's Exhibit S -- I'm showing that to
11 you. Can you identify Defendant's Exhibit S?

12 A This is the class I took at Erasmus Hall in 2003.

13 Q What class did you take in 2003?

14 A Global history.

15 MR. DINNERSTEIN: At this time I'd ask that
16 Defendant's Exhibit S for identification be received in
17 evidence.

18 MR. GOLDSMITH: No objection.

19 THE COURT: What is S again?

20 MR. DINNERSTEIN: Records from Erasmus Hall High
21 School.

22 Q You also said, sir, that you went to night school; is
23 that correct?

24 A Yes.

25 Q Where did you go to night school?

1 A I went to Jamaica.

2 Q When was it that you went to night school?

3 A 2004, 2005.

4 Q What was the reason that you went to night school?

5 A Make up my classes.

6 Q I'm going to ask --

7 MR. DINNERSTEIN: This will be Defendant's Exhibit
8 EE.

9 THE COURT: What is the exhibit?

10 MR. DINNERSTEIN: EE.

11 THE COURT: EE?

12 MR. DINNERSTEIN: Yes.

13 (Continued next page)

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1 BY MR. DINNERSTEIN:

2 Q I'm going to ask you to take a look at that piece of
3 paper?

4 Can you identify that piece of paper.

5 A Yes.

6 Q What is it?

7 A Program card.

8 Q What is a program card for?

9 A From my history five class.

10 Q When what school is that?

11 A Don't say it. But it could be Adams or Jamaica.

12 MR. DINNERSTEIN: At this time, I would ask that
13 Defendant's Exhibit EE be introduced into evidence.

14 MR. DuCHARME: No objection.

15 THE COURT: In evidence.

16 (So marked.)

17 Q Now, did you write any papers while you were a student at
18 these schools?

19 A Yes.

20 Q Let me ask you to take a look at what's been marked for
21 identification as Defendant's Exhibit T. What is Defendant's
22 Exhibit's T?

23 A A report on Judaism.

24 Q When did you write that report?

25 A 8-7-2003.

1 Q Where were you going to school in August 7 of 2003?

2 A Erasmus Hall.

3 THE COURT: You want that in evidence also.

4 MR. DINNERSTEIN: Yes, your Honor.

5 THE COURT: Do you have any other records?

6 Apparently the government is not going to object to any school
7 records you want the jury to see.

8 MR. DuCHARME: We would object to this one, absent
9 some showing of relevance.

10 THE COURT: I agree with you. It's not relevant.

11 MR. DINNERSTEIN: It says something about his
12 character.

13 THE COURT: It's not relevant.

14 What else do you have?

15 MR. DINNERSTEIN: That's a fair warning.

16 You want me to show it to him all at once?

17 THE COURT: Show it to the government. The last one
18 is not relevant. I sustain the objection.

19 Do you have any others?

20 MR. DINNERSTEIN: Yes.

21 THE COURT: Show them to the government. Let's move
22 it along.

23 These are the rest of the exhibits you would like in
24 evidence, right?

25 MR. DINNERSTEIN: These are some of them.

1 THE COURT: Show them all.

2 MR. DINNERSTEIN: These are just the school records,
3 the school reports.

4 THE COURT: The rest of the school records?

5 MR. DINNERSTEIN: What?

6 THE COURT: These are the rest of the school
7 records? You have other records?

8 MR. DINNERSTEIN: Yes, judge.

9 THE COURT: Try to move it along. Show them to the
10 government. They may not object.

11 MR. DuCHARME: On the face of these documents it's
12 very difficult to see any possible relevance they can have.

13 THE COURT: If there's an objection, I'll consider
14 it.

15 MR. DuCHARME: There is an objection.

16 We're going to adjourn at 4:30. We'll look at them
17 at 4:30 after the jurors are not here, so we don't have to
18 take up their time and we'll make our rulings by tomorrow
19 morning.

20 What else do you have?

21 BY MR. DINNERSTEIN:

22 Q Did you attend school -- let me show you Defendant's
23 Exhibit X for identification?

24 THE COURT: You have a F in here.

25 MR. DINNERSTEIN: X.

1 THE COURT: X, as in extra?

2 MR. DINNERSTEIN: As in extra.

3 THE COURT: What are those?

4 Q Can you identify that document, sir?

5 A One of my program cards.

6 Q Is that your program card that you had in April of 2004?

7 A Yes.

8 Q Would this be the program that you would have in May of
9 2004?

10 A Yes.

11 THE COURT: Those are the school courses you've
12 taken?

13 THE WITNESS: Yes.

14 THE COURT: Is that what it shows?

15 MR. DINNERSTEIN: Yes.

16 THE COURT: Does the government have any objection
17 to that?

18 MR. DuCHARME: No objection.

19 THE COURT: All right. In evidence X.

20 (So marked.)

21 Q This is when you were attending school at John Adams High
22 School in 2004, is that correct?

23 A Yes.

24 Q Now, did you also attend school at Kingsborough Community
25 College?

1 A Yes.

2 Q When did you attend school at Kingsborough Community
3 College?

4 A 2007, 2008.

5 THE COURT: Why would that be relevant? We know he
6 went to school. You said he went to school in 2007, 2008. If
7 the government questions that, then we'll consider it having
8 established. Is there going to be any issue about this?

9 MR. DuCHARME: Not an issue.

10 THE COURT: You don't need it in evidence. It's
11 stipulated he went to school at Kingsborough in 2007 and 2008.
12 Okay.

13 MR. DINNERSTEIN: Does the government also stipulate
14 that he worked at Home Depot in 2008?

15 THE COURT: They might. I don't know. I'm trying
16 to spare the need to introduce papers if everyone is in
17 agreement. You folks can talk to each other. Maybe you can
18 stipulate to these things.

19 (Pause.)

20 MR. DuCHARME: That's fine. We don't contest that
21 he work at Home Depot for a period of time in 2008.

22 MR. DINNERSTEIN: That would be Defendant's Exhibit
23 Z.

24 THE COURT: Do you need that in evidence?

25 MR. DINNERSTEIN: Yes, as I do Defendant's Exhibit

1 Y. So that the jurors can see it, if they want to.

2 THE COURT: Y is what now?

3 MR. DINNERSTEIN: Y is the Kingsborough Community
4 College record.

5 THE COURT: You want that in evidence?

6 MR. DINNERSTEIN: Yes, your Honor.

7 MR. DuCHARME: No objection.

8 THE COURT: All right.

9 (So marked.)

10 THE COURT: And Z now is Home Depot.

11 MR. DINNERSTEIN: Yes, your Honor.

12 THE COURT: Home Depot. Those are the in evidence.

13 (So marked.)

14 THE COURT: Do you have anything else?

15 Q Did you also get a welder's license?

16 A Yes.

17 MR. DINNERSTEIN: Are you stipulating to this?

18 THE COURT: You want to show his welder's license as
19 well?

20 MR. DINNERSTEIN: Yes.

21 THE COURT: What other papers do you have? We may
22 be able to do this pretty quickly without prejudicing anybody.
23 What's the document called, welder's license?

24 MR. DINNERSTEIN: It's from the State of New York
25 that he has passed the exam for a welder's license.

1 THE COURT: Let's put it in evidence. What number
2 is that?

3 MR. DINNERSTEIN: AA.

4 THE COURT: AA welder's license or whatever it is is
5 in evidence.

6 (So marked.)

7 THE COURT: Whatever it is.

8 MR. DuCHARME: Whatever it is, we have no objection.

9 THE COURT: Welder's document.

10 Q Did you make efforts to get a job or take a course at a
11 cable installation training program?

12 A Yes.

13 Q I'm going as to show you this document.

14 THE COURT: Did you show it to the government?

15 MR. DINNERSTEIN: They have seen it.

16 THE COURT: Does the government have any objection
17 to it?

18 MR. DuCHARME: No, your Honor.

19 THE COURT: So what is that?

20 MR. DINNERSTEIN: BB.

21 THE COURT: BB in evidence.

22 (So marked.)

23 THE COURT: What's this called again?

24 MR. DINNERSTEIN: It's called a Brooklyn Workshop
25 Innovations Cable Installation Program that he took.

1 THE COURT: Cable installation program.

2 Anything else?

3 BY MR. DINNERSTEIN:

4 Q Did you take a course receiving a certificate from the
5 bible correspondence course in 2010?

6 A Yes.

7 Q I ask you to take a look at this document.

8 THE COURT: How many more documents do you have?
9 Just answer my question.

10 MR. DINNERSTEIN: This is the last one, judge.

11 THE COURT: The last one. In evidence, CC.

12 MR. DINNERSTEIN: Yes.

13 (So marked.)

14 THE COURT: Bible in evidence. You went to bible
15 school, right?

16 THE WITNESS: Yes.

17 THE COURT: Did a lot of praying, right?

18 THE WITNESS: Yes.

19 THE COURT: Okay. In evidence.

20 MR. DINNERSTEIN: I'm going to be done, actually,
21 judge.

22 THE COURT: Take your time. You have all the time
23 in the world.

24 BY MR. DINNERSTEIN:

25 Q Let's talk about that you were arrested with a weapon on

1 April 1 of 2004, is that correct?

2 A Yes.

3 Q Tell the ladies and gentlemen of the jury what that was
4 all about?

5 A I had a gun. I was coming off of Raleigh Place crossing
6 Church Avenue walking towards my grandmother's house and she
7 was the third house on the block, fourth house on the block,
8 maybe about two houses before it, the second house, an Officer
9 Fonrose called to me and I looked back and I kept on walking
10 and I didn't pay him no mind. I kept on walking. He called
11 to me again and when I looked he started picking up his pace
12 like he was running towards me. So I ran towards the house
13 and I ran inside the house.

14 Q Why did you have a gun on that day?

15 A I'm a kid. I don't know.

16 Q Did you ever have a gun on any other day?

17 A No.

18 Q How did you afford to by that gun?

19 A The money I had from marijuana and a little money I had,
20 too.

21 Q Did you ever fire that gun?

22 A No.

23 Q Did you ever use that gun to commit a crime?

24 A No.

25 Q Do you remember earlier on at this trial Detective

1 Fonrose and Atkins testified?

2 A Yes.

3 Q Did you see either of those officers in the neighborhood?

4 A Yes.

5 Q How did you see them?

6 A Traveling around. If they would come on the block and
7 hop out, you know, search you.

8 Q How many times did they search you?

9 A A few times.

10 Q Which one, Fonrose or Atkins?

11 A The shorter one, Atkins.

12 Q Did he pull out his weapon when he searched you?

13 A Not all the time. Only -- he will pull it out when he
14 jumps out of the car. He tell us don't move, don't move and
15 pull out his badge, he was the police, search us. That's what
16 he would do.

17 Q When he searched you, did you have anything on you?

18 A No. Well, one time I had something on me.

19 Q What did you have on you the one time?

20 A Weed.

21 Q How much weed did you have?

22 A I don't remember.

23 Q Did he arrest you?

24 A Yes.

25 Q How about the other times, did you have any weed on you?

1 A No.

2 Q And did he arrest you?

3 A No. He only arrested me one time and then Fonrose
4 arrested me in the house one time. That's just two times for
5 the both of them.

6 Q Tell us what happens when Fonrose chased you into the
7 house?

8 A Well, I went in the house. I was walking in the house.
9 They chased me into the house and after like we was in the
10 hallway -- we was like -- they got two doors. I went through
11 the next door. The first door, the second door and further
12 down in the hallway there's the next door. I went through
13 that door right by the bathroom and that's when he caught up
14 to me and my family was in there. They came. That's when he
15 was holding on to me.

16 Q How did you feel when all this was happening?

17 A I was scared.

18 Q Why?

19 A I don't know. I was scared.

20 Q Did you say anything when you were scared?

21 A I called out for my family, my grandmother.

22 Q What did you say?

23 A I said, Help me.

24 Q By the way, one more item?

25 Did you ever work for the sanitation department.

1 A Yes.

2 Q When did you work for the sanitation department?

3 A First time was 2008.

4 Q What did you do for the sanitation department?

5 A They give you a 311 number. I shoveled snow at the bus
6 stops, sidewalks Ant fire hydrants in the wintertime.

7 Q Did they pay you for that?

8 A Yes.

9 Q How much did they pay you?

10 A Ten dollars an hour to twelve dollars an hour.

11 Q Did they provide you with some form of identification?

12 A Yes.

13 THE COURT: We don't need the identification.

14 MR. DINNERSTEIN: DD.

15 THE COURT: He's testified. If the government
16 raises an issue on cross-examination we can deal with that
17 later. Right now they are not challenging that. Go ahead.

18 Q Did you shoot anybody on May 26, 2004?

19 A No.

20 Q Have you ever shot anybody?

21 A No.

22 MR. DINNERSTEIN: I have nothing further.

23 THE COURT: Does the government wish to inquire this
24 afternoon?

25 MR. DuCHARME: That would be fine, your Honor. We

1 can begin.

2 THE COURT: Let's see how it goes.

3 CROSS-EXAMINATION

4 BY MR. DuCHARME:

5 Q Good afternoon, Mr. Praddy.

6 A Good afternoon.

7 Q On direct examination you were asked if you have any
8 other names, do you recall that?

9 A Yes.

10 Q You have a street name, don't you?

11 A That's for the street.

12 Q What do they call you on the street?

13 A Bird.

14 Q Bird?

15 A Yes.

16 Q Anything else?

17 A No.

18 Q Birdman sometimes?

19 A Yes.

20 Q When did people start calling you Birdman?

21 A All the time.

22 Q Do you remember when it started?

23 A Since I was younger. I don't remember. Since I was
24 younger.

25 Q People were calling you Birdman in 2004?

1 A Yes, before 2004.

2 Q And, Mr. Praddy, you sold marijuana over the years 2003
3 to 2009, right?

4 A Yes. 2003 to 2009.

5 Q You were arrested for selling marijuana in October of
6 2003, right?

7 MR. DINNERSTEIN: Objection, your Honor. That was
8 possession.

9 THE COURT: Overruled. What was the question?

10 Q You were arrested with 54 bags of marijuana in October of
11 2003, right?

12 A Yes. That's what the officer said, yes.

13 THE COURT: I didn't hear what you are saying.

14 THE WITNESS: I didn't count the bags. Yes. I had
15 marijuana on me.

16 Q It was a lot of bags, right?

17 A I don't remember. I had marijuana on me.

18 THE COURT: Do you remember whether it was one or
19 two or many? Can you give the jurors some approximation?

20 THE WITNESS: It was quite a few bags.

21 Q Could it have been 54?

22 A I don't remember.

23 Q That was not the first time that you had marijuana
24 packaged that way, was it?

25 A Yes.

1 Q The very first time you had marijuana packaged in that
2 way you got caught by the police?

3 A I'm not saying the very first time. Around that time I
4 had marijuana.

5 Q Around October of 2003?

6 A A couple of weeks before that, around that time is when I
7 started selling marijuana. It's not the first day I just
8 walked outside and sell marijuana. I'm saying around that
9 time, yes.

10 Q And you were selling marijuana at that time until the
11 fall of 2003, right?

12 A Not to a whole bunch of people. A few people.

13 Q You were selling marijuana, right?

14 A Yes.

15 Q And that was in the area --

16 A Yes. I sold marijuana at that time.

17 (Continued on next page.)

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1 CROSS EXAMINATION (Cont'd)

2 BY MR. DuCHARME:

3 Q And that was in the area of Raleigh Place and Church
4 Avenue, right?

5 A Yes.

6 Q Some of the sales you made were on Raleigh Place in 2003,
7 right?

8 A Yes.

9 Q And some of the sales you made were on Church Avenue,
10 right?

11 A Yes.

12 MR. DuCHARME: Now, may I approach, Your Honor?

13 THE COURT: Yes.

14 Q Showing you a picture that's in evidence Mr. Praddy,
15 that's Government Exhibit 472, are you familiar with that
16 location?

17 A Yes.

18 Q What's that?

19 A Nail salon, candy store, Roti shop, barbershop.

20 Q Directing your attention to the store behind the street
21 -- the candy store?

22 A Right.

23 Q You sold marijuana from that candy store, right?

24 A No.

25 Q You never sold marijuana from the candy store?

1 A I go to the candy store. I wasn't just standing up in the
2 candy store or with marijuana out of my pocket. I guess the
3 store, yes, I sold on the sidewalk walking on Church Avenue
4 and Raleigh Place.

5 Q And sometimes you sold marijuana inside the candy store;
6 isn't that right?

7 A Yeah, I brought it with me, the called me, who were
8 working in there.

9 Q Well, not just the people who were working in the candy
10 store?

11 A As you see I walked in if I was walking past.

12 Q Okay.

13 A I didn't stand all day on the corner. I told them to
14 meet me there. I wasn't just standing in one place and
15 selling.

16 Q You sold marijuana a hundred times in that area; isn't
17 that right, sir?

18 A Not all the time.

19 Q More that a hundred times; is that fair to stay?

20 A Occasionally over the years, if it is six years divided
21 in two, I had jobs, go to school so I'm not there all day.

22 THE COURT: Tell the jurors to your best
23 recollection about how many times did you sell marijuana.

24 THE WITNESS: I don't count the times but a number of
25 times over the years.

1 THE COURT: No, no, you approximate. It an under
2 ten, over ten if you can.

3 THE WITNESS: More than ten times.

4 THE COURT: More than ten times. Is ten times your
5 best approximation? Not more than that?

6 THE WITNESS: More than ten times.

7 THE COURT: More than ten times could be a thousand,
8 could be a million.

9 THE WITNESS: Nowhere near a million.

10 THE COURT: Listen to me. You give the jurors -- I
11 am not putting words in your mouth -- your best guess. You
12 know. You are the one that was selling. You tell the jurors
13 what you recall today. Give them some sense the amount of
14 marijuana you sold over the years.

15 THE WITNESS: The amount of marijuana I sold over
16 the years, couple pounds of marijuana. Maybe five pounds.

17 THE COURT: Five pounds of marijuana is your best
18 recollection. That is what he recalls. Next question.

19 Q Some of this was broken down in nickel bags; is that
20 right?

21 A Nickel, dime, quarter ounce.

22 Q You had half pounds at times, too; isn't that right?

23 A No.

24 Q Well, you broke down your marijuana to sell; isn't that
25 right?

1 A No.

2 Q You never broke marijuana down into nickel bags to sell;
3 is that your testimony?

4 A Not a half pound.

5 Q Well, you discussed a half pound with Mr. McQuilkin on
6 the tape, didn't you?

7 A Yes, tell him how much it cost.

8 Q And sir, when you were apprehended by the FBI you recall
9 when that happened, approximately, month and year?

10 A In June.

11 Q What year?

12 A 2009.

13 Q And when you were apprehended you had over a thousand --

14 MR. DINNERSTEIN: May we approach?

15 THE COURT: No. He answered the question, when he
16 was apprehended.

17 Q When you were apprehended you had over a thousand dollars
18 in cash on your person; isn't that right?

19 A Yes.

20 Q Ant different places, the different sources that you had
21 for marijuana, Mr. Praddy, Bobby, you see him on the board,
22 right?

23 A Yes.

24 Q You know Bobby, right?

25 A Yes.

1 Q You know Bobby from the Raleigh Place area; isn't that
2 right?

3 A Yes.

4 Q And Bobbie, he was one of your suppliers of marijuana;
5 isn't that right?

6 A I wouldn't say because I only bought it from him a few
7 times. I bought him from a couple times, four or five times.

8 Q So my question to you is Bobby was one of your suppliers;
9 isn't that fair to say?

10 A For a time. I bought from a guy on the TV a lot. More
11 than Bobby.

12 Q Well, Bobby he actually got arrested in 2004, didn't he?

13 A That's why I said how many times can I really buy from
14 him.

15 Q But when he was around on the block, he was one of your
16 suppliers; isn't that right?

17 A Whoever was cheaper.

18 Q And Joe, you see him on the board, right?

19 A Yes.

20 Q Joe was one of your suppliers of marijuana; isn't that
21 right?

22 A Not at 2004.

23 Q 2003?

24 A No. Later.

25 Q Later than that?

1 A Yes.

2 Q How about Kion, when was he supplying you with marijuana?

3 A He wasn't supplying because he was in jail, so there was
4 no reason to buy from him.

5 Q But you got marijuana from Kion sometimes, didn't you?

6 A If I did it probably one time, two times, but I don't
7 remember. Kion was in jail, so there was no need to get
8 marijuana from Kion and by the time he came out of I was
9 already in it.

10 Q The day that you were arrested by Detective Fonrose, you
11 also had some marijuana on you that day; isn't that right?

12 A The day I was arrested by -- no.

13 Q The day you had your gun in the backpack?

14 A No.

15 Q You didn't have any marijuana on you that day?

16 A No, he said I pulled out three bags and tossed it to the
17 ground and I kept on running. It don't make sense. It don't
18 make sense to pull out three bags, toss it to the ground and
19 then run to the house.

20 Q So it is your testimony there was no marijuana at all in
21 that backpack the day --

22 A -- that is my testimony --

23 Q Detective Fonrose and Detective Atkins arrested you?

24 A That is my testimony.

25 Q Were you calling out to your family members?

1 A Yes.

2 Q Were you calling out to them take my backpack?

3 A Yes, that's what it says in the minutes.

4 Q That's what happened, isn't it?

5 A I remember -- I remember screaming. I remember being
6 scared, yes.

7 Q You screamed take my backpack, right?

8 A Yes.

9 Q And that's what happened, sir. My question is not what
10 it says in the minutes.

11 A I can't give you have the full details. I don't
12 remember. I know I was scared. I was screaming, yes.

13 Q Were part of the reason you were scared is because you
14 had a loaded handgun --

15 A -- yeah --

16 Q -- in the backpack; isn't that right?

17 A But it was in the backpack. I didn't pull it out. I
18 didn't no doing anything. I ran in my grandmother's house.

19 Q And you wanted your family members to take the backpack
20 so you wouldn't get caught with the gun, right?

21 A Yes.

22 Q And that gun worked, right?

23 MR. DINNERSTEIN: Your Honor, can he finish answering
24 the question.

25 A I never used the gun.

1 Q It worked, right?

2 A I never used the gun.

3 Q Well, did you stand up in court and tell the Judge it
4 worked?

5 A So -- yeah.

6 THE COURT: The question is do you know of your own
7 knowledge whether the gun you had was an operational gun,
8 whether it was working?

9 THE WITNESS: Yes, from what they said, yes.

10 THE COURT: No, what you say, what you know. Did you
11 know that when you had it your backpack it was a gun that
12 would work? Did you know that? That is a simple question,
13 it's yes or no.

14 THE WITNESS: I never fired it so --

15 THE COURT: That's not the question I am asking you.
16 Right now I am asking you whether you knew at the time the gun
17 that was in your backpack would work.

18 THE WITNESS: I would assume so.

19 THE COURT: That's his answer.

20 Q Did you load the gun?

21 A No.

22 Q You got it loaded?

23 A Yes.

24 Q When did you get it, when did you get that loaded gun?

25 A The same day.

1 Q The very same day you were arrested?

2 A The same day.

3 Q What other days did you carry the gun, sir?

4 A No other days.

5 Q So the only time you ever carried a gun in your life
6 happens to be the day that Detective Fonrose arrested you; is
7 that your testimony?

8 A Yes, I learned my lesson from that. I don't carry a gun.
9 You see on the tape numerous times, no guns.

10 MR. DuCHARME: Now can I see Defendant's Exhibit G?

11 Bear with me, Your Honor.

12 Q Mr. Praddy, do you have a notebook in front of you, an
13 exhibit?

14 A No.

15 Q Now, Mr. Praddy, you are aware that there was some
16 violence on that block in 2003-2004?

17 A No, I learned about it in the first case and this case.

18 THE COURT: No first case. Did you learn about the --
19 did you know there was violence on the block when you were on
20 the block in 2003, that's the question, yes or no.

21 THE WITNESS: No, I learned about it in the case.

22 THE COURT: Don't say that. I am asking you a
23 question. In 2003 you were there, right?

24 The question is did you know there was violence in
25 that neighborhood at the time, yes or no?

1 THE WITNESS: No.

2 THE COURT: You didn't know of any violence that was
3 going on, right?

4 THE WITNESS: No, I heard, you know.

5 THE COURT: Not what you heard, what you knew. You
6 never saw any violence?

7 THE WITNESS: No.

8 THE COURT: That's his answer, he never knew there
9 was violence.

10 Q How about other drug selling activity, were there other
11 people selling drugs on the block in 2003 and 2004?

12 A Other people were selling.

13 Q And that's a competitive business, isn't it?

14 A No.

15 Q No?

16 A No.

17 Q You can make a lot of money selling marijuana, can't you?

18 A I don't know. Depends. Depends on who you are selling it
19 to, what you are selling.

20 Q Well, it is a cash business, isn't it?

21 A Yes.

22 Q And there were a lot of customers on Church Avenue in
23 2003 and 2004, weren't' there?

24 A I was not there everyday.

25 Q So, sir, you're aware, aren't you, that there was a lot

1 of marijuana trafficking going on Church Avenue and Raleigh
2 Place in 2003 and 2004, aren't you?

3 A No. It looks the same how it looked on the tape. It was
4 not a lot of traffic. I was not there every single day.

5 Q Is it your testimony that the level of drug sales has
6 been the same from 2003 to the time we saw on the tape 2008 to
7 2009; is that your testimony?

8 A Me, I didn't sell for anybody. I sold by myself, so for
9 me.

10 Q Well, I am asking you what you observed when you were in
11 that area, weren't there a lot of drug sales going on?

12 A I don't know. I mean people buy weed. Yes people bought
13 we out there.

14 Q It wasn't hard to sell weed, was it?

15 MR. DINNERSTEIN: Objection to that question.

16 THE COURT: Sustained.

17 Q Well, did you have any difficulty -- how long would it
18 take you, sir, for example, to sell 54 nickel bags?

19 A Couple days.

20 Q Couple of days?

21 A Yes.

22 Q And that's a cash business, right?

23 A Yes.

24 Q And so you could make a lot of cash standing out on
25 Church Avenue or in the candy store?

1 A I was not standing in the candy store on Church Avenue.
2 I'd be walking around Raleigh Place.

3 Q And there were other people that you saw selling in that
4 same neighborhood; isn't that right?

5 A Yes. Yeah.

6 Q Like Dre, for example?

7 A I wasn't there with Dre.

8 Q You were never present when Dre was selling marijuana; is
9 that your testimony?

10 A He said he was selling in '98 or '99 from 8:30 in the
11 morning until 3:00 no, I wasn't.

12 Q What about in 2003 or 2004, were you ever present when
13 Dre was selling marijuana then?

14 A Possibly sometime. Summertime, yeah, possibly. School
15 time sometime.

16 Q And you had conversations with Dre about selling
17 marijuana sometimes; isn't that right?

18 A In evidence no conversation with Dre.

19 Q How about Bobbie, you talked about to Bobbie about
20 selling marijuana, didn't you?

21 A No.

22 Q Well, you got supplied by Bobbie with marijuana to sell;
23 isn't that right?

24 A As you see on the tape, I bought the marijuana through a
25 guy, we didn't talk about nothing. We just exchanged. That's

1 all it was, exchange. Bought it from him.

2 Q You were aware, sir, weren't you there was a relationship
3 between Bobbie and Joe and Kion Andre in terms of selling
4 marijuana on Church Avenue Raleigh Place; isn't that right?

5 A No, but I know a lot of older guys hang out on the block
6 in the area, yeah.

7 Q So I understand you, sir, is it your testimony that you
8 had no understanding that Bobbie had any control over that
9 block?

10 A It wasn't no proof, but I know Bobby was out, Kion, I
11 know these people were out there, yes.

12 Q Just so I am clear, sir, it is your testimony that there
13 was no crew?

14 A They saying I was part of a crew, and you know, all of
15 this type of stuff, I was no part no crew. Yes, I lived on
16 Raleigh Place.

17 Q Not everyone was allowed to sell on Church Avenue and
18 Raleigh Place, were they?

19 A I didn't stop anybody from selling on Church Avenue and
20 Raleigh Place.

21 Q You never chased anybody off the block?

22 A No.

23 Q Never saw that happen?

24 A No.

25 Q Not one time?

1 A No. I didn't have no reason to. People, you know, they
2 see us together, but there's no Raleigh Place crew here. This
3 is my crew, you know, Lindsey Torell, yes, my friend. They
4 are around my age, so guys I hang out when I come to Brooklyn.

5 Q Ant guys you hang out with sell marijuana on Raleigh
6 Place and Church Avenue?

7 A I don't hang out with the older guys.

8 Q Not any more but you did before?

9 A Even before I didn't hang out with the older guys.

10 Q How about Darren, you hang out with him, right?

11 A Yes.

12 Q And he sells marijuana, right?

13 A I learned off the tape, yeah.

14 Q Before you saw the tape, sir, you had no idea Darren sold
15 marijuana?

16 A You see on the tape I had to call him and tell him to get
17 the marijuana for me. If he was selling marijuana there would
18 be no need for him to call me so I call him -- my cousin me
19 because I was there. Told him I was long the block, whatever.

20 Q Darren is your cousin?

21 A Yes.

22 Q And you lived in 16 Raleigh Place together?

23 A Yeah, 2003.

24 Q And so until you saw that tape you had no idea he sold
25 marijuana?

1 A If he would have sold marijuana then it would have been
2 no reason for him to call me.

3 Q How about Torell, you know he sold marijuana, right?

4 A Yes.

5 Q And you and Torell helped each other sell marijuana,
6 right?

7 A No, but you know, I sell marijuana, I know he sell
8 marijuana, yeah.

9 Q So if somebody calls you looking for marijuana you might
10 refer them to Torell, right?

11 A No. If I got the marijuana and I am going to sell it.

12 THE COURT: Mr. DuCharme, you could ask one more
13 question. It is 4:30. I want to keep my word to the folks I
14 spoke to earlier that we would adjourn at 4:30. You could
15 continue if you have more questions tomorrow morning. I don't
16 want to rush anybody.

17 MR. DuCHARME: Thanks, Judge. Just one line of
18 questioning if it is okay. Probably two minutes.

19 THE COURT: And then you will continue tomorrow?

20 MR. DuCHARME: Yes, Your Honor, if that's okay.

21 Q Mr. Praddy, this your handwriting as well? I am showing
22 you a page from Government Exhibit G.

23 MR. DINNERSTEIN: Defense Exhibit G.

24 MR. DuCHARME: I am sorry. Defense Exhibit G.

25 (Witness perusing).

1 Is that your handwriting, that is my question to
2 you.

3 THE COURT: Do you recognize the handwriting?

4 A Yes, yes, yes.

5 Q Is it your handwriting?

6 A I am trying to read.

7 THE COURT: I am sorry. What is your answer.

8 THE WITNESS: Yes, yes, I'd say this is my
9 handwriting.

10 Q May I have that back please, sir. And you wrote this in
11 June of 2004, right?

12 A I didn't look at the date just now, but yeah.

13 Q I will put it up so the jury can see. It is in evidence.

14 You can see the date there June 2004, right?

15 A Yes.

16 Q Right, sir?

17 A Yes.

18 Q And that would have been about two months after you got
19 arrested with the loaded gun, right?

20 A Yes.

21 Q And if says -- this says: One policy I would reform if I
22 became principal would be metal detectors because I think
23 students should be treated like they are in schools and not
24 jails. I believe the Board of Education should have trust in
25 their students. I know certain kids carry weapons to school

1 but should all kids pay for certain kids? Yes, they say it is
2 for kid s' safety but who wants to be searched every morning
3 before entering school. Do you they have MD and then it
4 crossed out?

5 Did you write that, sir?

6 A Yes.

7 Q And is that how you felt, that there should be no metal
8 detectors in schools?

9 A Yeah.

10 Q And that's because you didn't want to be searched; is
11 that right?

12 A Every morning waiting on line, yeah.

13 MR. DuCHARME: We can take a break at this point.

14 THE COURT: So, members of the jury, obviously, we
15 are at a point of the trial where a lot of things are coming
16 to a head here, so I don't want you to talk to anybody once
17 again back home, please. You know it would be terribly wrong
18 if you were to do that, especially since this case is now
19 coming to a close in the very near future.

20 So get a good night's sleep. Tomorrow is going to
21 be a big day. What you can expect, I suspect, would be the
22 conclusion of the evidentiary and testimonial part of the
23 trial and after that we are going to hear the concluding
24 remarks, sometimes we refer to them as summations, of counsel
25 and we will see how long that lasts.

1 I will get a sense of that while you are away and it
2 may well be that I will be able to give you the instructions
3 on the law tomorrow.

4 We will see how it goes, but you have a pretty good
5 idea time wise where we are at in the course of the trial.

6 Make sure that you clear your calendars for the rest
7 the week, for sure, and you know, also, for next week. We
8 don't know how long deliberations take. Just use good common
9 sense so nothing will interfere with your ability to fully and
10 fairly discuss you're the case during your deliberations.

11 I can tell the attention you paid to this case. A
12 lot of you were sitting at the edge of your chairs throughout
13 the whole trial and keep up the good work.

14 See you tomorrow at 10:00 clock.

15 THE CLERK: All rise.

16 (Jury exited the courtroom)

17 THE CLERK: You all may be seated.

18 THE COURT: Everyone, be seated.

19 Now, I think it would be best, Mr. Praddy, that you
20 don't discuss your testimony since you are under
21 cross-examination with counsel.

22 MR. DINNERSTEIN: Your Honor, I would say I object to
23 him not being able to talk to his lawyer.

24 THE COURT: All right. Since he is the defendant,
25 normally we don't like to have witnesses talking to lawyers

1 during cross-examination but since he is the defendant, I will
2 make an exception. Certainly, the government can explore
3 that, if they wish to do that, okay. So you are all clear
4 about that. We are going to hand out the proposed draft.

5 MR. DINNERSTEIN: I would object to them being able
6 to explore that. He has an absolute right to speak to his
7 lawyer.

8 THE COURT: Certainly he does, right, but I think
9 that they can question him. I'm pretty sure that is a
10 legitimate type of question to ask and it goes to the
11 credibility or integrity of his testimony.

12 All right. So anyway, I want you to look at page 16.
13 We have to give the jury some sense of what the enterprise is
14 in terms of duration. In the first trial we had racketeering
15 where the indictment specifically alleged that there was a
16 continuing enterprise back to January 1, 1998 to June 1, 2009.
17 I don't think that is viable any more with respect to the
18 second trial because, first of all, we don't have an
19 indictment that gives us a timeframe. So I think,
20 nonetheless, there has to be some timeframe in terms of what
21 the government's position is in terms of the continuity of the
22 enterprise. Think about that and then since we are not -- what
23 I surmise here is just the drugs, if there's anything I'm
24 missing, let me know about that, and you can look through the
25 rest of this and see if you have any problems with it.

1 Now, you have some exhibits here that the defendant
2 wanted to introduce into evidence that the government did
3 object to. I don't specifically recall the I.D. labels at
4 this time. Do you still want those documents in evidence,
5 Mr. Dinnerstein?

6 MR. DINNERSTEIN: Yes, Your Honor.

7 THE COURT: What documents were they again?

8 MR. DINNERSTEIN: They were defendant's -- I can
9 provide them for you to look at overnight.

10 THE COURT: Right. Ant government still wants to
11 object to them on grounds of relevancy?

12 MR. DuCHARME: Yes.

13 THE COURT: I will take a look at them. Mr. Cohen,
14 my law clerk is sitting right here, and just identify what
15 they are for the record.

16 MR. DINNERSTEIN: They're Defendant's Exhibit, I
17 think, S did not you object to.

18 THE COURT: S is in. I have S in evidence.

19 MR. DINNERSTEIN: So it is T.

20 THE COURT: T, I have in evidence also excluding --

21 MR. DINNERSTEIN: T they objected to.

22 THE COURT: They objected to. I sustained the
23 objection.

24 MR. DINNERSTEIN: T, U, V and W are ones that I
25 would like in.

1 THE COURT: T, U, V.

2 MR. DINNERSTEIN: The letter T, the letter V.

3 THE COURT: I sustained the objection.

4 MR. DINNERSTEIN: I thought you were going to review
5 it.

6 THE COURT: That I sustained the objection on. The
7 rest of them are what now?

8 MR. DINNERSTEIN: U, V and W.

9 THE COURT: U, V and W?

10 MR. DINNERSTEIN: Then double E and double D.

11 THE COURT: D?

12 MR. DINNERSTEIN: D, yes.

13 THE COURT: The issue is relevancy?

14 MR. DuCHARME: Yes, Your Honor.

15 THE COURT: Let me have those, please. Now, give me
16 some sort of timeframe tomorrow. You are going to be
17 completing your cross examination, I am not putting any time
18 pressures on anybody.

19 MR. DuCHARME: It won't be long.

20 THE COURT: You may have some further questions,
21 Mr. Dinnerstein, I suspect?

22 MR. DINNERSTEIN: I will.

23 THE COURT: Okay. So we will do that first thing in
24 the morning and do you have any other testimony evidence after
25 this? (Continued on next page)

1 MR. DINNERSTEIN: No. I will just ask you to take
2 judicial notice that May 26, 2004 was, I think, a Tuesday --
3 Tuesday or Wednesday.

4 MR. DuCHARME: I think a Wednesday. We can check.

5 THE COURT: You can check on that and stipulate.

6 Will the government have any rebuttal?

7 MR. GOLDSMITH: I don't expect to.

8 THE COURT: Be prepared to give your concluding
9 remarks, the government will be able to do that tomorrow
10 morning and we should be able to finish.

11 How long do you anticipate? Once again, I just need
12 a general time frame so I can prepare my workday.

13 MR. GOLDSMITH: Maybe 45 minutes or an hour.

14 THE COURT: Whatever it takes. Mr. Dinnerstein,
15 you're not bound to any time that you say right now, just give
16 me a general sense.

17 MR. DINNERSTEIN: Probably about an hour.

18 THE COURT: Fine.

19 My sense that is if that is the case we can give the
20 case to the jury tomorrow. Go over the proposed charge,
21 answer my questions.

22 You know the rest of the charge because it's a
23 repeat. I will tell the jury during my instructions that it's
24 not in the written instructions here but that they are not to
25 speculate about anything they have heard about prior trials or

1 prior testimony or anything of that nature.

2 So I'll be able to cover that I think very
3 effectively in my oral presentation to the jury because they
4 have heard some snippets of comments about prior testimony,
5 prior trial and I will just tell them don't speculate about
6 that. Okay?

7 See you tomorrow at 10 o'clock.

8 (Continued to April 27, 2011, at 10:00 a.m.)

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20
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22
23
24
25

1	INDEX		
2	ABDO DHAIFALLAH	786	3
3	DIRECT EXAMINATION	786	12
4	CROSS-EXAMINATION	796	8
5	ANDRE THOMAS	807	1
6	DIRECT EXAMINATION	807	4
7	CROSS-EXAMINATION	839	11
8	REDIRECT EXAMINATION	869	11
9	JOAQUIN GUITERREZ	872	9
10	DIRECT EXAMINATION	872	22
11	DIRECT EXAMINATION (Cont'd)	876	1
12	BY MR. GOLDSMITH		
13	CROSS-EXAMINATION	882	24
14	BY MR. DINNERSTEIN:		
15	JAMES O'SULLIVAN	887	15
16	DIRECT EXAMINATION	887	21
17	BY MR. GOLDSMITH:		
18	CROSS-EXAMINATION	894	23
19	BY MR. DINNERSTEIN:		
20	REDIRECT EXAMINATION	901	20
21	BY MR. GOLDSMITH:		
22	SHANELL JAMES	906	21
23	DIRECT EXAMINATION	906	24
24	CROSS-EXAMINATION	911	15
25	JUDY PRADDY	912	22

1	DIRECT EXAMINATION	912	12
2	VOIR DIRE EXAMINATION		
3	DIRECT EXAMINATION	929	12
4	ANTHONY PRADDY	932	15
5	DIRECT EXAMINATION	932	21
6	EXHIBITS		
7	479	811	17
8	Government Exhibits 429, 430, 431 and	877	3
9	432		
10	Government Exhibits 436 and 463	893	15
11	E	917	18
12	117	937	24
13	defendant Exhibit R	950	2
14	S	965	16
15			
16	F	923	25
17	G	928	4
18	H, I, J, K, L, M, N, O, P and Q	931	13
19	EE	967	13
20	X	970	19
21	Z	971	23
22	Y	972	1
23	AA	973	3
24	BB	973	20
25	CC	974	11

<p>\$</p> <p>\$150 ^[1] - 952:3 \$25 ^[1] - 947:10 \$300 ^[1] - 946:24 \$500 ^[1] - 815:18</p>	<p>1006:12 11:30 ^[1] - 861:9 11:40 ^[2] - 896:9, 897:25 12 ^[12] - 798:11, 798:12, 832:18, 904:24, 962:20, 962:22, 962:23, 964:8, 1005:3, 1006:1, 1006:3 120 ^[3] - 863:3, 864:1, 945:25 125 ^[2] - 821:1, 924:12 12:00 ^[3] - 798:13, 798:14 13 ^[3] - 892:1, 1006:18, 1006:19 130 ^[1] - 827:16 14 ^[3] - 907:15, 907:16, 908:1 15 ^[11] - 840:21, 861:9, 946:14, 952:2, 962:17, 1005:15, 1005:24, 1006:4, 1006:10 150 ^[1] - 828:5 155 ^[2] - 921:25, 924:19 16 ^[9] - 844:14, 844:17, 845:24, 851:19, 945:5, 960:1, 995:22, 1000:12, 1006:14 16th ^[1] - 955:9 17 ^[2] - 945:6, 1006:7 18 ^[6] - 840:19, 885:2, 885:4, 886:4, 888:25, 1006:11 19 ^[3] - 840:19, 921:7, 1006:20 1987 ^[3] - 888:5, 933:11, 933:13 1992 ^[1] - 924:15 1993 ^[1] - 908:20 1998 ^[1] - 1000:16 1999 ^[7] - 807:19, 813:23, 856:1, 862:14, 907:17, 908:23, 910:24 1999-2001 ^[1] - 863:22 19th ^[2] - 851:23, 851:24 1:30 ^[1] - 904:1</p>	<p>943:22, 961:18, 962:5, 963:2, 963:16, 966:3, 970:6, 970:9, 970:22, 975:1, 978:18, 979:25, 980:1, 986:12, 986:22, 991:11, 991:23, 992:2, 993:12, 997:11, 997:14, 1003:2 2005 ^[1] - 966:3 2005-2006 ^[2] - 946:11, 946:12 2007 ^[6] - 895:9, 959:9, 959:19, 971:4, 971:6, 971:11 2007-2008 ^[1] - 946:9 2008 ^[21] - 788:3, 796:20, 796:21, 796:23, 797:9, 797:17, 797:22, 797:25, 798:2, 802:24, 802:25, 917:16, 918:3, 959:8, 971:4, 971:6, 971:11, 971:14, 971:21, 978:3, 992:6 2009 ^[14] - 788:3, 796:24, 797:5, 797:7, 797:17, 798:5, 947:16, 959:8, 980:3, 980:4, 985:12, 992:7, 1000:16 2010 ^[2] - 949:17, 974:5 2011 ^[2] - 784:9, 1004:8 21 ^[3] - 1005:16, 1005:22, 1006:5 2130 ^[1] - 896:14 214 ^[1] - 883:11 22 ^[3] - 902:10, 1005:10, 1005:25 225 ^[1] - 784:22 226 ^[2] - 926:8, 926:9 23 ^[4] - 913:25, 933:9, 1005:18, 1006:21 24 ^[9] - 885:2, 885:4, 886:5, 928:15, 937:18, 937:20, 1005:13, 1005:23, 1006:12 25 ^[6] - 826:12, 942:3, 956:21, 956:23, 962:18, 1006:16 26 ^[18] - 784:9, 873:17, 888:6, 888:22, 895:11, 900:8, 927:1, 927:8, 927:12, 927:16, 929:15, 930:11, 935:13, 943:16, 943:18, 963:15, 978:18, 1003:2 26th ^[5] - 852:5, 895:3, 943:22, 961:18, 962:5 27 ^[6] - 877:11, 915:16, 927:12, 927:16, 930:14, 1004:8 271 ^[1] - 784:17 27th ^[3] - 963:24, 964:3, 964:7 28 ^[1] - 952:10 29 ^[1] - 903:16 2:15 ^[5] - 902:24, 903:12, 903:23, 904:16, 905:6 2:30 ^[1] - 864:21</p>
<p>'</p>		
<p>'03 ^[2] - 921:12 '04 ^[1] - 921:13 '06 ^[1] - 807:20 '07 ^[2] - 807:20, 831:21 '08 ^[1] - 797:4 '09 ^[1] - 797:4 '92 ^[1] - 935:2 '98 ^[1] - 993:10 '99 ^[2] - 807:19, 993:10</p>		
<p>0</p>		
<p>02 ^[1] - 921:12 04/589 ^[2] - 892:17, 893:2 04589 ^[1] - 893:21 09cr395 ^[1] - 784:4</p>		
<p>1</p>		
<p>1 ^[7] - 832:18, 975:1, 1000:16, 1005:5, 1005:11, 1006:22 1,500 ^[1] - 815:17 10 ^[1] - 1004:7 100 ^[3] - 816:17, 936:23, 936:24 10013 ^[1] - 784:20 101 ^[3] - 817:12, 938:14, 962:12 102 ^[5] - 785:9, 816:12, 909:6, 938:25, 962:12 103-17 ^[1] - 935:5 103rd ^[1] - 962:18 104 ^[1] - 817:3 106 ^[2] - 817:1, 939:11 107 ^[2] - 816:15, 939:25 108 ^[3] - 791:9, 793:6, 940:12 109 ^[3] - 803:20, 941:5, 941:6 10:00 ^[3] - 784:9, 999:14, 1004:8 10:50 ^[1] - 889:9 11 ^[6] - 889:8, 933:11, 933:13, 1005:7, 1005:8, 1006:25 110 ^[6] - 832:4, 833:6, 837:12, 838:8, 838:21, 936:1 111 ^[5] - 790:24, 799:6, 819:5, 941:20 112 ^[4] - 791:13, 793:13, 819:9, 941:24 113 ^[4] - 791:5, 792:2, 792:18, 944:25 1131 ^[1] - 891:25 115 ^[7] - 791:19, 793:18, 793:22, 820:23, 908:11, 943:25, 944:20 115-16 ^[1] - 924:12 117 ^[4] - 937:12, 937:13, 937:24,</p>	<p>2</p> <p>2 ^[2] - 889:1, 1006:13 20 ^[5] - 946:14, 962:17, 962:18, 1005:20, 1006:24 200 ^[2] - 825:19, 862:20 2000 ^[8] - 807:19, 813:23, 822:15, 840:25, 841:1, 919:7, 926:16, 926:18 2001 ^[1] - 888:14 2002 ^[1] - 917:3 2003 ^[35] - 845:7, 907:17, 908:21, 908:23, 910:24, 911:17, 911:20, 920:20, 921:13, 924:17, 924:18, 935:1, 935:3, 947:16, 965:6, 965:7, 965:12, 965:13, 968:1, 980:2, 980:4, 980:6, 980:11, 981:5, 981:11, 982:6, 986:23, 990:20, 990:23, 991:11, 991:23, 992:2, 992:6, 993:12, 995:23 2003-2004 ^[1] - 990:16 2004 ^[50] - 845:1, 845:5, 845:7, 845:13, 849:11, 849:16, 850:3, 877:11, 888:6, 888:22, 895:11, 900:8, 927:1, 927:8, 927:12, 927:16, 928:15, 929:17, 929:19, 930:3, 930:4, 930:6, 935:13, 935:19, 935:21, 936:2, 943:16, 943:18,</p>	<p>3</p> <p>3 ^[5] - 815:11, 831:3, 1005:2, 1006:8, 1006:23 30 ^[1] - 826:12 30's ^[3] - 937:3, 941:15, 941:17 31 ^[3] - 891:25, 938:6, 938:8 311 ^[1] - 978:5 3111 ^[5] - 787:2, 889:6, 889:13, 889:14, 889:15 31st ^[2] - 822:21</p>

<p>32nd ^[1] - 826:22 34 ^[4] - 839:22, 839:24, 940:23, 940:25 34-years-old ^[1] - 807:7 350 ^[2] - 784:20, 840:5 364 ^[1] - 850:9 38 ^[4] - 835:12, 835:13, 871:5, 902:13 38s ^[1] - 902:13 3:00 ^[8] - 855:24, 856:20, 857:9, 857:13, 857:17, 864:21, 866:18, 993:11</p>	<p>613-2505 ^[1] - 784:23</p> <p>7</p> <p>7 ^[3] - 962:18, 962:22, 968:1 70 ^[1] - 826:13 718 ^[2] - 784:23, 784:23 75 ^[1] - 950:4 786 ^[2] - 1005:2, 1005:3 796 ^[1] - 1005:4</p>	<p>A</p> <p>a.m ^[2] - 889:1, 1004:8 AA ^[3] - 973:3, 973:4, 1006:23 ABDO ^[3] - 786:2, 786:3, 1005:2 Abdo ^[4] - 785:24, 947:11, 948:23, 950:7 ability ^[1] - 999:9 able ^[19] - 804:23, 812:10, 880:14, 898:1, 927:20, 949:18, 952:11, 957:6, 957:8, 957:16, 957:23, 959:4, 972:22, 999:2, 999:23, 1000:5, 1003:9, 1003:10, 1004:2 abrasion ^[1] - 880:2 abrasions ^[2] - 880:20, 884:24 absences ^[4] - 924:22, 924:24, 926:17, 926:23 absent ^[5] - 925:5, 926:13, 926:15, 926:24, 968:8 absolute ^[1] - 1000:6 access ^[1] - 930:6 accident ^[2] - 862:11, 875:9 accidents ^[1] - 873:21 action ^[1] - 875:8 activity ^[1] - 991:10 Adams ^[11] - 921:17, 921:18, 929:23, 930:1, 962:10, 962:11, 962:21, 963:12, 964:20, 967:11, 970:21 added ^[1] - 946:20 additional ^[3] - 890:8, 926:4, 964:16 adjacent ^[3] - 891:7, 892:5, 892:14 adjourn ^[2] - 969:16, 996:14 admitted ^[1] - 785:12 advise ^[1] - 903:2 advised ^[1] - 902:25 affect ^[1] - 812:24 affixed ^[1] - 900:3 afford ^[1] - 975:18 AFTERNOON ^[1] - 906:1 Afternoon ^[1] - 838:6 afternoon ^[16] - 832:18, 838:5, 855:24, 867:17, 883:1, 883:2, 887:14, 903:5, 903:6, 906:14, 907:1, 913:5, 954:8, 978:24, 979:5, 979:6 afternoons ^[1] - 863:9 age ^[7] - 808:1, 877:17, 908:18, 919:15, 930:4, 937:10, 995:4 agent ^[2] - 844:6, 904:1 Agent ^[23] - 808:16, 809:21, 809:22, 810:14, 844:4, 844:11, 844:19, 844:22, 845:6, 845:24, 847:2, 847:16, 847:19, 848:6, 851:8, 851:19, 851:22, 852:7, 853:19, 865:3, 865:10, 906:7 ago ^[8] - 807:11, 809:19, 840:9, 840:21, 845:24, 852:3, 852:7, 852:24 agree ^[3] - 811:20, 811:25, 968:10 agreed ^[1] - 906:6 agreement ^[10] - 811:5, 811:13, 811:14, 811:20, 844:11, 851:14, 851:16, 854:17, 855:13, 971:17</p>
<p>4</p>	<p>8</p>	
<p>4 ^[2] - 1005:6, 1006:17 40 ^[1] - 902:13 400 ^[1] - 907:19 41 ^[1] - 962:14 429 ^[7] - 876:11, 876:20, 876:22, 876:23, 877:3, 877:5, 1006:8 430 ^[5] - 876:11, 876:21, 877:3, 877:25, 1006:8 431 ^[5] - 876:11, 876:21, 877:3, 878:7, 1006:8 432 ^[5] - 876:11, 876:21, 877:3, 881:20, 1006:9 436 ^[6] - 892:23, 893:11, 893:13, 893:15, 893:17, 1006:10 44 ^[2] - 902:11, 963:10 44-caliber ^[1] - 902:13 444 ^[1] - 787:13 45 ^[2] - 827:18, 1003:13 450 ^[1] - 874:18 461 ^[1] - 898:11 463 ^[6] - 893:4, 893:11, 893:13, 893:15, 894:2, 1006:10 46th ^[1] - 832:12 471 ^[3] - 891:23, 898:14, 898:16 472 ^[4] - 814:19, 889:10, 890:11, 982:15 473 ^[1] - 890:16 475 ^[1] - 891:9 477 ^[1] - 892:11 479 ^[3] - 811:11, 811:17, 1006:7 4:30 ^[5] - 953:5, 969:16, 969:17, 996:13, 996:14</p> <p>5</p> <p>5 ^[3] - 962:20, 962:23, 964:8 500 ^[1] - 815:13 54 ^[3] - 980:10, 980:21, 992:18 5:00 ^[2] - 838:2, 838:4 5:15 ^[2] - 962:20, 964:8 5K ^[2] - 812:1, 812:2</p>	<p>8 ^[2] - 889:1, 1005:4 8-7-2003 ^[1] - 967:25 807 ^[2] - 1005:5, 1005:6 811 ^[1] - 1006:7 820 ^[1] - 926:8 839 ^[1] - 1005:7 869 ^[1] - 1005:8 872 ^[2] - 1005:9, 1005:10 876 ^[1] - 1005:11 877 ^[1] - 1006:8 882 ^[1] - 1005:13 887 ^[2] - 1005:15, 1005:16 893 ^[1] - 1006:10 894 ^[1] - 1005:18 8:30 ^[9] - 815:2, 815:10, 855:23, 857:9, 857:13, 857:17, 866:17, 867:13, 993:10</p>	
<p>6</p>	<p>9</p>	
<p>60 ^[1] - 826:13 601 ^[1] - 926:22 613-2481 ^[1] - 784:23</p>	<p>9 ^[1] - 1005:9 901 ^[1] - 1005:20 906 ^[2] - 1005:22, 1005:23 911 ^[1] - 1005:24 912 ^[2] - 1005:25, 1006:1 917 ^[1] - 1006:11 923 ^[1] - 1006:16 928 ^[1] - 1006:17 929 ^[1] - 1006:3 931 ^[1] - 1006:18 932 ^[2] - 1006:4, 1006:5 937 ^[1] - 1006:12 950 ^[1] - 1006:13 96 ^[1] - 934:13 965 ^[1] - 1006:14 967 ^[1] - 1006:19 970 ^[1] - 1006:20 971 ^[1] - 1006:21 972 ^[1] - 1006:22 973 ^[2] - 1006:23, 1006:24 974 ^[1] - 1006:25 99-2000 ^[10] - 856:3, 856:4, 856:6, 856:10, 856:15, 856:25, 857:10, 857:11, 862:15, 863:21 9:35 ^[1] - 896:15</p>	

<p>ahead [9] - 786:25, 787:12, 861:16, 872:19, 874:22, 928:7, 928:11, 955:6, 978:17</p> <p>ahuh [3] - 789:25, 796:3, 804:6</p> <p>aided [1] - 784:25</p> <p>air [1] - 826:3</p> <p>Akim [1] - 921:5</p> <p>alcohol [1] - 864:9</p> <p>alleged [1] - 1000:15</p> <p>allow [1] - 812:12</p> <p>allowed [8] - 825:7, 829:3, 841:12, 850:10, 850:11, 918:14, 918:16, 994:17</p> <p>almost [7] - 788:17, 801:8, 801:9, 802:21, 840:24, 853:21, 853:23</p> <p>alone [2] - 859:21, 870:4</p> <p>altercation [1] - 807:24</p> <p>AMERICA [1] - 784:4</p> <p>American [2] - 873:9, 874:8</p> <p>amount [10] - 805:14, 805:15, 805:16, 805:17, 828:4, 880:18, 880:19, 946:14, 984:13, 984:15</p> <p>amounts [1] - 909:17</p> <p>analysis [1] - 888:19</p> <p>anatomic [1] - 874:10</p> <p>Andre [3] - 806:21, 806:23, 994:3</p> <p>ANDRE [3] - 806:23, 807:1, 1005:5</p> <p>ANDREW [1] - 784:16</p> <p>annoy [1] - 878:17</p> <p>answer [10] - 794:12, 845:3, 850:23, 850:24, 923:12, 974:9, 989:19, 991:8, 997:7, 1003:21</p> <p>answered [4] - 833:23, 847:10, 869:1, 985:15</p> <p>answering [1] - 988:23</p> <p>Ant [38] - 818:16, 819:1, 819:6, 837:16, 839:4, 839:7, 841:7, 850:13, 850:14, 854:23, 855:3, 876:15, 876:18, 878:3, 879:2, 879:6, 881:3, 883:11, 891:21, 891:22, 892:8, 892:16, 894:5, 904:1, 914:10, 919:13, 927:7, 934:1, 959:10, 959:11, 962:1, 962:22, 962:25, 964:2, 978:6, 985:20, 995:5, 1001:10</p> <p>ANTHONY [2] - 784:8, 1006:4</p> <p>Anthony [55] - 800:2, 803:9, 818:24, 819:8, 819:25, 820:1, 823:7, 823:8, 834:12, 835:12, 842:1, 842:7, 842:18, 842:20, 843:2, 843:5, 845:19, 852:21, 853:8, 853:10, 856:4, 856:6, 856:15, 856:23, 856:24, 856:25, 857:10, 865:13, 865:23, 867:9, 867:24, 868:3, 869:1, 910:11, 910:12, 911:1, 913:23, 914:7, 914:8, 914:23, 916:17, 918:5, 918:12, 920:12, 920:23, 920:24, 920:25, 921:14, 930:3, 932:15, 932:20, 932:23, 933:5, 946:15</p> <p>Anthony's [3] - 920:8, 927:18, 931:19</p> <p>anticipate [1] - 1003:11</p> <p>anyway [1] - 1000:12</p> <p>apostrophe [1] - 887:20</p> <p>appearances [1] - 785:1</p> <p>APPEARANCES [1] - 784:13</p>	<p>application [1] - 904:24</p> <p>applied [1] - 886:4</p> <p>applies [3] - 873:12, 886:8, 886:16</p> <p>apprehended [4] - 985:8, 985:13, 985:16, 985:17</p> <p>approach [6] - 790:20, 811:8, 876:8, 892:21, 982:12, 985:14</p> <p>approximate [6] - 880:18, 880:19, 884:15, 884:16, 897:15, 984:1</p> <p>approximation [2] - 980:19, 984:5</p> <p>April [13] - 784:9, 808:9, 829:7, 844:14, 844:17, 845:24, 851:19, 851:24, 904:24, 918:3, 970:6, 975:1, 1004:8</p> <p>Arabic [1] - 796:17</p> <p>area [27] - 815:6, 817:23, 819:15, 819:16, 822:3, 866:22, 888:11, 891:21, 891:25, 907:6, 907:18, 907:20, 918:22, 930:2, 934:17, 935:11, 940:15, 943:11, 946:3, 947:1, 958:9, 981:15, 982:3, 983:16, 986:1, 992:11, 994:6</p> <p>arrest [5] - 795:14, 850:14, 912:2, 976:23, 977:2</p> <p>arrested [24] - 795:13, 813:6, 813:11, 813:20, 817:19, 844:9, 850:18, 911:17, 911:21, 912:6, 912:9, 974:25, 977:3, 977:4, 980:5, 980:10, 986:12, 987:10, 987:12, 987:23, 990:1, 990:6, 997:19</p> <p>arrests [1] - 813:14</p> <p>arrival [4] - 889:17, 889:23, 889:25, 897:1</p> <p>arrived [2] - 896:7, 897:12</p> <p>artery [5] - 879:1, 879:4, 879:5, 882:10, 882:19</p> <p>article [1] - 893:9</p> <p>articulate [1] - 786:23</p> <p>aside [1] - 871:5</p> <p>assigned [1] - 888:10</p> <p>assigns [1] - 900:5</p> <p>Assistant [1] - 784:17</p> <p>assistants [1] - 904:1</p> <p>associated [1] - 811:24</p> <p>assume [5] - 846:19, 846:21, 852:4, 865:17, 989:18</p> <p>Atkins [4] - 976:1, 976:10, 976:11, 987:23</p> <p>Atlantic [1] - 935:10</p> <p>attacked [2] - 828:20, 828:22</p> <p>attempt [1] - 890:1</p> <p>attend [5] - 962:7, 963:24, 969:22, 970:24, 971:2</p> <p>attendance [3] - 923:7, 923:17, 924:6</p> <p>attended [11] - 924:19, 925:14, 926:7, 926:8, 926:13, 927:12, 929:23, 930:11, 930:14, 930:22, 962:4</p> <p>attending [2] - 964:7, 970:21</p> <p>attention [2] - 982:20, 999:11</p> <p>attorney [1] - 847:17</p> <p>Attorney [1] - 784:15</p> <p>Attorneys [1] - 784:17</p> <p>August [11] - 797:4, 797:5, 797:12,</p>	<p>797:14, 797:15, 797:17, 807:19, 968:1</p> <p>aunt [1] - 944:6</p> <p>authenticity [1] - 928:10</p> <p>authorities [1] - 847:13</p> <p>automatically [1] - 835:24</p> <p>automobile [5] - 916:23, 916:25, 930:6, 930:7, 930:8</p> <p>autopsies [3] - 873:22, 873:23, 873:25</p> <p>autopsy [7] - 876:3, 876:15, 876:23, 877:8, 877:10, 877:12, 878:8</p> <p>available [1] - 904:1</p> <p>Avenue [45] - 787:2, 799:6, 799:8, 814:15, 814:17, 814:18, 815:3, 828:18, 832:12, 837:18, 837:20, 841:4, 841:17, 841:20, 849:22, 862:10, 867:6, 868:17, 871:1, 889:2, 889:6, 889:12, 889:13, 890:19, 891:12, 895:24, 934:14, 935:10, 953:20, 955:18, 955:22, 963:10, 964:9, 975:6, 982:4, 982:9, 983:3, 991:22, 992:1, 992:25, 993:1, 994:4, 994:17, 994:19, 995:6</p> <p>avoid [3] - 817:19, 846:2, 846:6</p> <p>avoided [2] - 844:20, 844:23</p> <p>awaiting [1] - 920:8</p> <p>aware [4] - 841:22, 990:15, 991:25, 994:2</p> <p>awhile [6] - 821:9, 825:7, 826:8, 826:19, 830:4, 850:15</p> <p>awning [2] - 787:19, 890:21</p>
		<p style="text-align: center;">B</p> <p>backpack [9] - 987:13, 987:21, 988:2, 988:7, 988:16, 988:17, 988:19, 989:11, 989:17</p> <p>backyard [1] - 827:20</p> <p>bad [6] - 790:4, 822:19, 833:10, 843:20, 848:14, 893:7</p> <p>badge [1] - 976:15</p> <p>bag [12] - 800:14, 898:22, 899:19, 899:20, 900:13, 900:14, 901:6, 901:7, 948:8, 952:1</p> <p>baggies [6] - 794:21, 794:23, 794:24, 795:8, 795:10, 894:19</p> <p>bagging [1] - 952:1</p> <p>bags [11] - 794:25, 838:10, 980:10, 980:14, 980:16, 980:20, 984:19, 985:2, 987:16, 987:18, 992:18</p> <p>bail [1] - 854:22</p> <p>ballistic [1] - 893:10</p> <p>ballistics [9] - 879:14, 894:11, 898:4, 898:5, 898:7, 898:24, 898:25, 899:2, 901:8</p> <p>Barbershop [1] - 934:15</p> <p>barbershop [9] - 832:9, 832:10, 832:11, 832:16, 832:19, 832:25, 833:1, 934:11, 982:19</p> <p>based [4] - 794:6, 820:15, 897:2, 930:11</p> <p>Basement [3] - 840:14, 840:16, 840:25</p>

<p>basement [1] - 821:21</p> <p>Basin [2] - 933:19, 934:5</p> <p>basis [6] - 806:6, 841:2, 863:24, 911:1, 920:14, 951:9</p> <p>bathroom [1] - 977:13</p> <p>BB [3] - 973:20, 973:21, 1006:24</p> <p>bear [1] - 990:11</p> <p>beard [1] - 804:17</p> <p>bears [1] - 886:21</p> <p>beat [2] - 822:10, 838:25</p> <p>beating [1] - 859:6</p> <p>beautiful [2] - 871:21, 872:3</p> <p>became [1] - 997:22</p> <p>becomes [1] - 899:17</p> <p>beef [1] - 825:6</p> <p>beer [3] - 864:11, 898:21, 901:4</p> <p>BEFORE [1] - 784:11</p> <p>begin [1] - 979:1</p> <p>beginning [1] - 821:5</p> <p>behalf [1] - 903:2</p> <p>behind [12] - 814:24, 821:25, 822:21, 822:22, 835:5, 841:9, 868:22, 879:3, 901:23, 901:25, 929:19, 982:20</p> <p>beige [1] - 919:12</p> <p>Belize [2] - 935:15, 935:17</p> <p>below [3] - 891:8, 926:20, 926:21</p> <p>bench [1] - 855:4</p> <p>best [7] - 853:5, 897:16, 983:22, 984:5, 984:11, 984:17, 999:19</p> <p>better [1] - 855:17</p> <p>between [19] - 808:1, 819:19, 836:8, 837:16, 837:21, 837:22, 848:25, 857:9, 857:17, 884:8, 885:4, 886:24, 891:21, 891:22, 902:12, 907:17, 918:22, 962:12, 994:3</p> <p>Beverly [1] - 951:1</p> <p>bible [3] - 974:5, 974:14</p> <p>bicycle [3] - 856:7, 943:18, 943:20</p> <p>big [6] - 794:24, 822:1, 862:16, 862:21, 902:11, 998:21</p> <p>bigger [2] - 823:2, 823:3</p> <p>bikes [2] - 818:5, 818:12</p> <p>bird [4] - 789:6, 789:7, 979:13, 979:14</p> <p>Bird [18] - 789:19, 789:20, 789:22, 790:16, 791:2, 791:4, 791:24, 792:17, 792:19, 792:24, 792:25, 800:3, 800:4, 801:14, 801:21, 802:14, 806:3, 960:20</p> <p>Birdman [7] - 819:1, 820:18, 820:20, 839:4, 979:18, 979:20, 979:25</p> <p>birth [1] - 933:10</p> <p>birthday [2] - 850:6, 850:7</p> <p>bit [8] - 786:10, 812:9, 814:8, 835:8, 840:6, 869:10, 952:15, 952:18</p> <p>black [10] - 879:24, 880:6, 884:19, 884:24, 884:25, 885:3, 885:5, 886:15, 886:21, 886:22</p> <p>blacks [1] - 824:9</p> <p>BLOCK [1] - 784:11</p> <p>Block [1] - 786:8</p> <p>block [38] - 818:2, 819:15, 819:16, 821:8, 823:6, 823:9, 823:18, 824:13, 824:14, 825:2, 825:3, 825:4, 825:12, 826:15, 828:13, 828:23, 829:4, 837:19, 837:23, 839:20, 858:8, 858:21, 910:12, 910:14, 975:7, 976:6, 986:15, 990:16, 990:19, 990:20, 991:11, 994:5, 994:9, 994:21, 995:19</p> <p>blocks [2] - 818:1, 839:19</p> <p>blood [16] - 879:5, 879:6, 879:19, 881:12, 881:15, 881:16, 881:17, 882:20, 883:13, 883:16, 883:18, 884:8, 884:9, 884:11, 893:3, 893:23</p> <p>blue [8] - 881:3, 892:19, 892:20, 892:25, 893:5, 894:4, 954:19</p> <p>board [22] - 794:7, 794:16, 795:7, 805:3, 819:15, 819:17, 821:12, 823:5, 825:13, 825:22, 827:10, 831:12, 833:25, 834:9, 834:11, 841:7, 873:8, 874:7, 874:9, 874:10, 985:21, 986:18</p> <p>Board [4] - 873:9, 874:8, 923:4, 997:24</p> <p>Bob [38] - 814:4, 814:7, 814:25, 815:2, 815:4, 815:25, 816:6, 816:9, 816:14, 821:6, 821:14, 821:16, 821:20, 822:2, 823:7, 825:15, 825:23, 825:24, 826:6, 828:20, 833:12, 834:4, 834:8, 841:15, 841:16, 842:11, 869:14, 869:19, 869:21, 870:3, 870:13, 870:15, 870:17, 870:22</p> <p>Bobbie [10] - 950:25, 951:3, 951:6, 951:17, 986:4, 993:19, 993:22, 994:3, 994:8</p> <p>Bobby [50] - 841:10, 841:12, 841:22, 841:25, 842:7, 842:14, 842:17, 842:24, 843:2, 843:5, 843:7, 843:20, 845:12, 845:14, 845:16, 845:17, 845:19, 850:11, 854:2, 858:24, 859:1, 859:3, 859:5, 859:7, 859:9, 859:11, 859:13, 859:15, 859:18, 859:20, 859:23, 860:6, 860:8, 860:14, 909:3, 909:8, 939:1, 939:2, 939:4, 939:6, 939:8, 951:12, 985:21, 985:24, 986:1, 986:8, 986:11, 986:12, 994:10</p> <p>Bobby's [1] - 843:15</p> <p>body [5] - 876:16, 876:18, 877:16, 878:2, 883:21</p> <p>body's [1] - 877:16</p> <p>bone [1] - 879:19</p> <p>book [1] - 929:20</p> <p>books [1] - 927:7</p> <p>borderline [2] - 934:6, 935:9</p> <p>born [2] - 933:12, 935:1</p> <p>boss [2] - 841:7, 859:1</p> <p>bottle [5] - 898:21, 900:13, 900:17, 901:4</p> <p>bottles [1] - 864:8</p> <p>bottom [2] - 878:17, 878:18</p> <p>bought [24] - 789:11, 790:16, 794:2, 795:8, 795:17, 800:1, 800:6, 806:10, 909:9, 910:3, 910:7, 917:5, 917:6, 917:7, 947:8, 948:18, 950:24, 951:11, 986:6, 986:7, 986:10, 992:12, 993:24, 994:1</p>	<p>Boulevard [4] - 934:7, 934:9, 935:5, 962:12</p> <p>bound [1] - 1003:15</p> <p>boy [1] - 908:6</p> <p>Boy [2] - 817:15, 940:10</p> <p>branch [1] - 873:11</p> <p>break [5] - 861:8, 952:19, 954:24, 954:25, 998:13</p> <p>brief [2] - 871:17, 928:5</p> <p>briefly [4] - 874:2, 876:12, 901:19, 911:14</p> <p>bring [9] - 785:3, 785:16, 800:11, 800:23, 805:12, 847:19, 904:4, 906:12, 947:6</p> <p>bringing [1] - 879:5</p> <p>broad [3] - 829:15, 829:16, 830:10</p> <p>Broadway [1] - 784:20</p> <p>broke [2] - 984:24, 985:2</p> <p>broken [1] - 984:19</p> <p>Brooklyn [14] - 784:7, 784:18, 784:22, 814:15, 814:17, 814:18, 872:3, 889:3, 907:5, 935:9, 943:6, 950:13, 973:24, 995:4</p> <p>brother [5] - 933:21, 935:7, 937:1, 937:6</p> <p>brothers [1] - 938:3</p> <p>brought [4] - 802:6, 805:5, 805:8, 983:7</p> <p>brown [2] - 898:21, 899:19</p> <p>brushed [4] - 834:22, 835:8, 845:3, 845:4</p> <p>buff [1] - 902:11</p> <p>building [1] - 915:3</p> <p>bullet [8] - 878:22, 878:25, 879:2, 879:9, 879:12, 879:25, 893:10, 894:12</p> <p>bullets [4] - 901:9, 901:11, 901:23, 901:25</p> <p>bullshit [1] - 831:6</p> <p>bumped [2] - 947:24, 960:19</p> <p>bunch [1] - 981:12</p> <p>burton [1] - 784:21</p> <p>bus [8] - 836:20, 934:10, 934:13, 934:14, 959:10, 959:11, 963:10, 978:5</p> <p>business [8] - 808:18, 820:8, 827:25, 850:17, 868:11, 991:13, 991:20, 992:22</p> <p>buy [28] - 788:22, 788:24, 789:22, 790:6, 790:10, 794:4, 794:19, 795:20, 806:3, 806:6, 815:24, 824:1, 863:23, 909:11, 909:13, 909:14, 909:22, 910:1, 917:4, 947:8, 951:9, 954:15, 957:23, 957:24, 959:19, 986:13, 987:4, 992:12</p> <p>buying [2] - 795:25, 909:15</p> <p>BY [33] - 784:16, 786:13, 796:9, 807:5, 837:1, 839:12, 861:18, 869:12, 872:23, 876:2, 882:25, 887:22, 894:24, 901:21, 906:25, 911:16, 913:2, 923:1, 928:13, 929:13, 932:22, 953:13, 967:1, 969:21, 974:3, 974:24, 979:4, 982:2, 1005:12, 1005:14, 1005:17, 1005:19, 1005:21</p>
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<p>C1B [2] - 893:1, 893:21 cab [2] - 836:17 cable [2] - 973:11, 974:1 Cable [1] - 973:25 Cadman [2] - 784:17, 784:22 calculate [1] - 930:4 calendars [1] - 999:6 caliber [2] - 902:11, 902:13 calibers [1] - 902:9 called-appearances [1] - 785:1 calm [2] - 868:24, 868:25 candy [31] - 787:4, 787:7, 792:14, 814:17, 814:22, 814:23, 829:19, 834:17, 834:23, 834:24, 834:25, 837:16, 837:23, 865:23, 866:3, 867:19, 867:20, 871:6, 947:3, 954:1, 982:19, 982:21, 982:23, 982:25, 983:1, 983:2, 983:5, 983:9, 992:25, 993:1 cannabinoids [2] - 881:15, 881:17 cannot [3] - 893:7, 896:25, 901:3 car [9] - 829:16, 891:21, 891:22, 917:21, 918:6, 918:10, 918:12, 951:2, 976:14 card [3] - 967:7, 967:8, 970:6 cards [3] - 808:17, 808:18, 970:5 care [3] - 831:8, 842:24, 853:4 cared [5] - 842:23, 843:1, 860:12, 860:13, 861:2 career [1] - 873:24 carotid [5] - 879:1, 879:4, 879:5, 882:10, 882:19 carried [1] - 990:5 carry [4] - 825:16, 990:3, 990:8, 997:25 carrying [1] - 825:14 cars [4] - 817:23, 818:3, 818:4 cartridges [1] - 902:3 case [24] - 785:1, 785:21, 860:9, 860:10, 897:3, 899:24, 902:23, 903:13, 903:19, 903:22, 927:23, 927:25, 935:18, 949:21, 952:20, 990:17, 990:18, 990:21, 998:18, 999:10, 999:11, 1003:19, 1003:20 cash [6] - 818:9, 835:3, 985:18, 991:20, 992:22, 992:24 cashier [1] - 835:2 casings [1] - 902:4 Castle [1] - 963:8 Catholic [2] - 925:7, 925:15 caught [3] - 977:13, 981:2, 988:20 caused [7] - 826:7, 828:11, 873:21, 875:2, 875:7, 884:25 CC [2] - 974:11, 1006:25 cellphone [1] - 958:10 cells [1] - 958:9 census [6] - 949:3, 949:4, 949:15, 949:16, 949:18, 949:22 Census [1] - 949:6</p>	<p>certain [6] - 828:4, 831:11, 910:6, 936:21, 997:25, 998:1 certainly [2] - 1000:2, 1000:8 certificate [6] - 876:19, 881:21, 917:14, 917:21, 918:3, 974:4 certified [5] - 873:8, 874:7, 874:9, 874:10, 876:14 chairs [1] - 999:12 challenging [1] - 978:17 changed [1] - 839:5 character [1] - 968:12 characteristics [1] - 877:16 charge [4] - 904:20, 904:22, 1003:20, 1003:22 charged [4] - 843:23, 844:2, 844:6, 844:8 charges [2] - 903:20, 904:17 charging [1] - 904:19 Charles [6] - 816:9, 817:2, 939:12, 939:14, 939:15, 939:17 chased [3] - 977:6, 977:9, 994:21 cheaper [3] - 951:10, 986:17 check [4] - 885:22, 928:10, 1003:4, 1003:5 chemical [2] - 900:14, 900:16 chest [15] - 877:21, 878:3, 878:14, 878:16, 878:21, 878:25, 879:1, 880:25, 882:9, 882:17, 886:8, 886:20, 886:21, 886:25, 887:4 Chief [1] - 873:2 child [2] - 829:6, 829:8 children [7] - 814:5, 827:7, 914:24, 914:25, 915:5, 920:9, 920:22 children's [2] - 914:23, 919:12 choice [5] - 852:12, 853:8, 853:19, 903:3, 904:6 chuckled [3] - 827:19, 829:14, 830:9 Church [45] - 787:2, 799:6, 814:15, 814:17, 814:18, 815:2, 828:18, 832:11, 837:18, 837:20, 841:4, 841:16, 841:20, 849:22, 862:10, 867:6, 868:17, 871:1, 889:2, 889:6, 889:12, 889:13, 890:19, 891:12, 895:24, 918:23, 947:1, 949:3, 953:20, 955:14, 955:18, 964:9, 975:6, 982:3, 982:9, 983:3, 991:22, 992:1, 992:25, 993:1, 994:4, 994:17, 994:19, 995:6 circle [1] - 894:8 circumstances [2] - 875:5, 875:10 City [8] - 873:3, 873:5, 874:7, 888:3, 888:4, 915:25, 916:7, 916:9 city [2] - 888:10, 888:12 city-wide [2] - 888:10, 888:12 civilians [3] - 897:17, 897:18, 897:20 claim [1] - 849:11 claimed [1] - 844:18 Clarence [1] - 818:16 class [3] - 965:12, 965:13, 967:9 classes [2] - 965:1, 966:5 clavicle [3] - 879:3, 879:7, 879:8 clear [5] - 904:7, 912:6, 994:12, 999:6,</p>	<p>1000:3 clearly [3] - 786:23, 792:9, 792:11 clerk [1] - 1001:14 CLERK [13] - 786:1, 787:22, 806:22, 887:14, 887:18, 903:15, 906:18, 912:20, 932:19, 952:21, 953:11, 999:15, 999:17 clinical [1] - 874:10 clock [1] - 999:14 close [11] - 880:9, 880:11, 886:7, 891:25, 892:13, 892:25, 920:10, 920:11, 920:12, 920:13, 998:19 close-up [3] - 891:25, 892:13, 892:25 closely [1] - 935:24 closer [4] - 878:15, 885:7, 885:8, 933:17 clothes [1] - 851:1 clothing [27] - 879:23, 880:4, 880:10, 880:12, 881:1, 885:12, 885:24, 886:6, 886:12, 886:23, 887:1, 891:8, 891:20, 891:22, 892:3, 892:14, 892:18, 893:9, 893:24, 894:13, 896:22, 896:24, 897:4, 897:6, 897:9, 898:7, 898:8 coat [1] - 919:13 Cohen [1] - 1001:13 collarbone [1] - 879:8 collected [2] - 890:7, 930:16 collection [1] - 927:21 college [1] - 824:7 College [3] - 970:25, 971:3, 972:4 color [2] - 805:2, 891:18 column [4] - 924:25, 925:3, 925:5 combination [1] - 909:15 comfortable [3] - 786:7, 823:22, 826:9 coming [9] - 828:12, 829:20, 859:14, 902:17, 911:24, 943:7, 975:5, 998:15, 998:19 command [1] - 899:25 comments [2] - 855:7, 1004:4 commit [1] - 975:23 committed [2] - 844:25, 896:10 common [1] - 999:8 communicated [1] - 904:9 community [1] - 824:1 Community [3] - 970:24, 971:2, 972:3 compared [1] - 887:2 competitive [1] - 991:13 complain [5] - 824:16, 825:6, 833:12, 848:21, 951:19 complained [2] - 824:15, 826:24 complete [3] - 902:23, 903:6, 906:10 completing [1] - 1002:17 completion [2] - 890:5, 900:2 complied [2] - 882:5, 894:9 computer [1] - 784:25 computer-aided [1] - 784:25 concerned [5] - 843:15, 843:18, 843:19, 847:25, 904:17 concerning [1] - 928:1 concluding [2] - 998:23, 1003:8 conclusion [1] - 998:22</p>

<p>conference ^[1] - 904:19</p> <p>connected ^[1] - 858:23</p> <p>connection ^[1] - 832:15</p> <p>consenting ^[1] - 855:8</p> <p>consider ^[2] - 969:13, 971:7</p> <p>considered ^[1] - 930:2</p> <p>conspiracy ^[3] - 809:1, 843:23, 844:7</p> <p>construction ^[5] - 807:13, 831:23, 840:9, 887:24, 915:23</p> <p>Cont'd ^[5] - 876:1, 943:1, 947:14, 982:1, 1005:11</p> <p>contact ^[6] - 880:9, 885:11, 886:7, 946:4, 946:6</p> <p>contain ^[2] - 902:2</p> <p>contains ^[2] - 893:2, 893:22</p> <p>contest ^[1] - 971:20</p> <p>continue ^[6] - 861:15, 906:14, 919:25, 953:12, 996:15, 996:19</p> <p>continued ^[10] - 835:16, 868:10, 868:18, 869:4, 875:11, 929:13, 942:10, 981:17, 1002:25, 1004:8</p> <p>Continued ^[6] - 806:24, 836:22, 905:8, 922:11, 952:24, 966:13</p> <p>continuing ^[1] - 1000:16</p> <p>continuity ^[1] - 1000:21</p> <p>control ^[1] - 994:8</p> <p>conversation ^[13] - 834:16, 835:25, 836:3, 836:4, 845:6, 854:25, 868:5, 868:6, 868:7, 954:9, 961:3, 961:5, 993:18</p> <p>conversations ^[1] - 993:16</p> <p>conveyed ^[1] - 906:6</p> <p>convict ^[1] - 848:21</p> <p>cool ^[2] - 819:14, 819:16</p> <p>cooperate ^[8] - 847:5, 847:13, 851:9, 852:9, 852:12, 853:20, 855:13, 855:17</p> <p>cooperated ^[3] - 848:6, 848:12, 851:12</p> <p>cooperation ^[6] - 811:13, 844:11, 851:14, 851:16, 854:17, 855:12</p> <p>coordinator ^[1] - 887:24</p> <p>copy ^[4] - 876:14, 876:18, 881:21, 893:7</p> <p>cordoned ^[5] - 889:17, 889:21, 889:22, 889:23</p> <p>corner ^[11] - 826:2, 826:22, 830:4, 878:12, 891:17, 894:6, 920:25, 955:14, 956:7, 956:11, 983:13</p> <p>corners ^[1] - 947:21</p> <p>correct ^[162] - 797:1, 798:1, 798:6, 798:8, 798:19, 799:13, 800:2, 800:4, 800:12, 800:15, 800:19, 800:24, 801:4, 802:7, 802:15, 803:22, 805:6, 806:6, 840:7, 840:11, 841:2, 841:8, 841:14, 841:20, 841:23, 842:1, 842:10, 842:18, 843:5, 843:24, 844:12, 844:15, 845:1, 845:6, 845:20, 846:3, 846:6, 846:9, 846:17, 846:23, 847:3, 847:7, 847:16, 848:2, 848:3, 848:7, 849:9, 849:12, 849:23, 852:20, 853:20, 854:10, 854:18, 855:8, 855:15, 855:21, 855:24, 856:2, 856:4, 856:8, 856:16, 856:23,</p>	<p>857:10, 858:3, 858:6, 858:24, 859:21, 860:6, 860:9, 863:13, 865:11, 865:14, 865:21, 865:22, 865:24, 866:6, 866:10, 866:18, 866:24, 866:25, 867:17, 867:18, 867:19, 868:9, 868:24, 869:2, 869:4, 869:23, 870:5, 883:13, 884:13, 884:20, 885:14, 885:19, 886:5, 886:9, 886:16, 886:18, 895:14, 896:2, 896:3, 896:5, 896:18, 896:20, 896:21, 896:22, 897:7, 897:10, 897:13, 897:23, 897:24, 898:5, 898:10, 898:18, 899:7, 900:25, 901:6, 901:14, 901:15, 910:4, 911:2, 914:11, 920:5, 920:7, 923:5, 924:12, 924:13, 924:18, 924:20, 925:7, 925:21, 925:22, 925:25, 929:5, 929:15, 929:21, 929:22, 929:24, 930:9, 930:10, 930:11, 930:14, 930:17, 938:3, 946:16, 948:10, 949:9, 950:14, 951:14, 952:12, 953:15, 953:23, 955:9, 958:4, 958:11, 959:15, 960:11, 963:22, 965:3, 965:23, 970:22, 975:1</p> <p>correctly ^[2] - 785:11, 863:22</p> <p>correspondence ^[1] - 974:5</p> <p>cost ^[4] - 850:17, 853:14, 956:20, 985:7</p> <p>Couchery ^[5] - 828:20, 837:16, 837:17, 870:24, 870:25</p> <p>counsel ^[3] - 928:10, 998:24, 999:21</p> <p>count ^[4] - 792:8, 949:5, 980:14, 983:24</p> <p>Count ^[2] - 905:1, 905:2</p> <p>counter ^[1] - 868:22</p> <p>country ^[3] - 911:24, 911:25, 912:10</p> <p>couple ^[20] - 790:12, 790:15, 790:22, 809:14, 816:22, 820:22, 824:20, 833:14, 858:18, 866:19, 909:12, 919:17, 952:4, 960:9, 960:10, 981:6, 984:16, 986:7, 992:19, 992:20</p> <p>course ^[8] - 847:25, 865:16, 897:9, 936:20, 973:10, 974:4, 974:5, 999:5</p> <p>courses ^[1] - 970:11</p> <p>court ^[16] - 785:1, 810:9, 842:9, 845:11, 848:16, 854:20, 861:12, 872:14, 874:15, 906:2, 919:8, 933:22, 934:21, 936:11, 953:1, 989:3</p> <p>COURT ^[1] - 784:1</p> <p>Court ^[3] - 784:21, 905:7, 952:23</p> <p>court-case ^[1] - 785:1</p> <p>Courthouse ^[1] - 784:7</p> <p>courtroom ^[7] - 785:17, 789:11, 818:17, 903:14, 910:16, 952:22, 999:16</p> <p>courts ^[1] - 873:13</p> <p>cousin ^[5] - 942:1, 945:3, 960:19, 995:18, 995:20</p> <p>cousins ^[1] - 819:21</p> <p>cover ^[1] - 1004:2</p> <p>credibility ^[1] - 1000:11</p> <p>crew ^[5] - 994:13, 994:14, 994:15, 995:2, 995:3</p> <p>crime ^[29] - 808:23, 808:25, 809:4, 810:15, 810:16, 810:25, 845:1, 888:17,</p>	<p>889:18, 892:1, 892:15, 892:16, 893:1, 893:2, 893:6, 893:7, 893:20, 893:21, 894:4, 895:13, 895:16, 896:14, 897:2, 897:19, 897:21, 899:12, 899:13, 900:8, 975:23</p> <p>Crime ^[3] - 888:9, 888:13, 888:16</p> <p>crimes ^[1] - 812:10</p> <p>CROSS ^[12] - 796:8, 839:11, 882:24, 894:23, 911:15, 979:3, 982:1, 1005:4, 1005:7, 1005:13, 1005:18, 1005:24</p> <p>cross ^[7] - 869:13, 870:3, 953:5, 978:16, 999:21, 1000:1, 1002:17</p> <p>CROSS-EXAMINATION ^[11] - 796:8, 839:11, 882:24, 894:23, 911:15, 979:3, 1005:4, 1005:7, 1005:13, 1005:18, 1005:24</p> <p>cross-examination ^[5] - 869:13, 870:3, 978:16, 999:21, 1000:1</p> <p>crossed ^[1] - 998:4</p> <p>crossing ^[1] - 975:5</p> <p>curb ^[1] - 901:4</p> <p>cursive ^[1] - 928:22</p> <p>customer ^[5] - 805:7, 806:1, 806:3, 815:24, 833:8</p> <p>customers ^[6] - 802:19, 824:5, 832:20, 832:24, 835:17, 991:22</p> <p>cut ^[3] - 893:2, 893:22, 934:15</p> <p>cylinder ^[3] - 902:3, 902:4, 902:6</p>
D		
		<p>D-H-A-I-F-A-L-L-A-H ^[1] - 786:2</p> <p>DA ^[1] - 851:13</p> <p>dad ^[2] - 919:4, 919:6</p> <p>damage ^[2] - 894:11, 898:7</p> <p>dark ^[1] - 914:9</p> <p>Darren ^[14] - 945:2, 945:14, 945:19, 945:21, 945:22, 960:24, 960:25, 961:3, 961:6, 961:8, 961:16, 995:10, 995:14, 995:20</p> <p>Darren's ^[3] - 945:10, 945:16, 945:18</p> <p>date ^[6] - 852:1, 856:11, 929:15, 933:10, 997:12, 997:14</p> <p>dated ^[1] - 928:15</p> <p>dates ^[3] - 927:13, 927:14, 927:15</p> <p>daughter ^[5] - 915:3, 915:6, 915:15, 915:16, 919:12</p> <p>DAVID ^[1] - 784:16</p> <p>daylight ^[3] - 829:15, 829:16, 830:10</p> <p>days ^[35] - 788:10, 788:12, 789:23, 789:24, 798:8, 798:16, 798:17, 809:19, 809:25, 810:4, 813:19, 834:14, 846:22, 850:9, 856:18, 856:19, 865:13, 866:19, 867:3, 867:5, 867:8, 867:10, 867:11, 867:25, 868:2, 883:19, 884:16, 884:17, 895:5, 990:3, 990:4, 992:19, 992:20</p> <p>DD ^[1] - 978:14</p> <p>deal ^[1] - 978:16</p> <p>deals ^[3] - 840:10, 873:11, 904:22</p> <p>death ^[16] - 873:14, 873:20, 874:23,</p>

<p>874:24, 875:1, 875:2, 875:4, 875:5, 875:9, 876:19, 881:21, 881:23, 882:8, 882:9, 883:16, 884:13</p> <p>deaths [1] - 873:20</p> <p>deceased [16] - 876:15, 876:17, 876:18, 876:19, 877:9, 878:4, 878:13, 879:13, 879:23, 881:2, 881:16, 881:22, 883:10, 883:24, 885:25, 919:5</p> <p>decide [1] - 903:22</p> <p>decided [1] - 852:12</p> <p>decides [1] - 850:11</p> <p>declined [1] - 904:9</p> <p>Dee [2] - 960:21, 960:23</p> <p>defendant [31] - 789:17, 789:18, 795:18, 795:21, 818:19, 818:20, 819:3, 819:20, 820:15, 820:17, 820:20, 824:12, 825:1, 834:13, 835:5, 836:1, 837:14, 837:25, 838:20, 871:5, 871:8, 903:2, 903:3, 904:13, 904:15, 950:2, 999:24, 1000:1, 1001:1, 1006:13</p> <p>Defendant [2] - 784:9, 784:19</p> <p>Defendant's [24] - 917:9, 917:18, 922:6, 923:25, 927:11, 928:4, 931:1, 949:12, 949:14, 949:22, 962:3, 964:14, 965:10, 965:11, 965:16, 966:7, 967:13, 967:21, 969:22, 971:22, 971:25, 990:10, 1001:16</p> <p>defendant's [2] - 903:3, 1001:8</p> <p>Defense [2] - 996:23, 996:24</p> <p>defense [3] - 906:16, 912:19, 932:14</p> <p>definitely [1] - 847:12</p> <p>degree [1] - 874:3</p> <p>deliberations [2] - 999:8, 999:10</p> <p>deliver [5] - 800:24, 801:3, 801:6, 801:9, 801:11</p> <p>delivered [1] - 899:21</p> <p>deliveries [3] - 837:8, 837:9, 837:11</p> <p>delivery [1] - 801:1</p> <p>denied [1] - 903:22</p> <p>department [3] - 977:25, 978:2, 978:4</p> <p>Department [3] - 915:24, 915:25, 916:5</p> <p>depended [1] - 822:10</p> <p>depicts [1] - 901:3</p> <p>deposits [1] - 884:25</p> <p>Depot [4] - 971:14, 971:21, 972:10, 972:12</p> <p>describe [1] - 874:1</p> <p>details [1] - 988:11</p> <p>detected [5] - 881:16, 883:18, 883:24, 884:10, 884:11</p> <p>Detective [5] - 888:3, 975:25, 987:10, 987:23, 990:6</p> <p>detective [3] - 888:23, 897:2, 987:23</p> <p>detectives [1] - 889:20</p> <p>detectors [2] - 997:22, 998:8</p> <p>determine [5] - 878:21, 880:11, 880:14, 880:15, 883:20</p> <p>determined [1] - 883:7</p> <p>determining [2] - 873:14, 883:15</p> <p>development [1] - 900:17</p>	<p>Devon [13] - 803:13, 801:3, 861:4, 861:20, 861:21, 861:24, 862:5, 862:6, 941:7, 941:9, 941:10, 941:12, 941:14</p> <p>DHAIFALLAH [2] - 786:3, 1005:2</p> <p>Dhaifallah [11] - 785:25, 786:6, 786:14, 787:15, 787:23, 791:23, 888:4, 895:4, 895:6, 900:4, 900:16</p> <p>diagram [3] - 876:16, 878:2, 878:5</p> <p>die [1] - 919:6</p> <p>died [2] - 876:6, 919:7</p> <p>difference [4] - 808:1, 884:8, 884:10, 886:24</p> <p>different [13] - 798:3, 798:4, 798:6, 822:8, 824:10, 839:15, 858:11, 909:17, 925:25, 926:1, 926:5, 985:20</p> <p>differently [1] - 838:20</p> <p>difficult [2] - 803:8, 969:12</p> <p>difficulty [1] - 992:17</p> <p>digging [1] - 822:23</p> <p>dime [2] - 947:19, 984:21</p> <p>dimes [7] - 838:9, 838:15, 857:22, 909:18, 909:19, 952:1, 952:2</p> <p>DINNERSTEIN [127] - 784:19, 785:5, 785:9, 785:14, 790:2, 794:8, 796:7, 796:9, 799:18, 806:14, 833:22, 834:5, 839:12, 861:7, 861:15, 861:17, 861:18, 869:8, 871:13, 874:21, 876:22, 877:1, 882:23, 882:25, 887:5, 894:22, 894:24, 898:15, 901:16, 902:16, 903:8, 903:18, 903:24, 904:12, 904:21, 906:11, 906:16, 906:25, 911:12, 912:14, 912:18, 913:2, 916:17, 916:20, 917:17, 917:22, 923:1, 923:18, 924:4, 928:3, 929:13, 930:24, 931:4, 931:10, 931:15, 932:6, 932:14, 932:22, 936:1, 937:23, 943:2, 947:13, 953:4, 953:9, 953:13, 965:15, 965:20, 966:7, 966:10, 966:12, 967:1, 967:12, 968:4, 968:11, 968:15, 968:20, 968:25, 969:2, 969:5, 969:8, 969:21, 969:25, 970:2, 970:15, 971:13, 971:22, 971:25, 972:3, 972:6, 972:11, 972:17, 972:20, 972:24, 973:3, 973:15, 973:20, 973:24, 974:3, 974:10, 974:12, 974:20, 974:24, 978:14, 978:22, 980:7, 985:14, 988:23, 992:15, 996:23, 999:22, 1000:5, 1001:6, 1001:8, 1001:16, 1001:19, 1001:21, 1001:24, 1002:2, 1002:4, 1002:8, 1002:10, 1002:12, 1002:22, 1003:1, 1003:17, 1005:14, 1005:19</p> <p>Dinnerstein [25] - 785:3, 796:6, 796:10, 839:10, 871:12, 876:25, 882:22, 883:3, 894:21, 894:25, 902:15, 903:1, 903:17, 904:8, 906:5, 906:7, 906:15, 912:13, 923:16, 931:9, 953:12, 1001:5, 1002:21, 1003:14</p> <p>dire [2] - 928:5, 928:9</p> <p>DIRE [2] - 928:12, 1006:2</p> <p>DIRECT [19] - 786:12, 807:4, 872:22, 876:1, 887:21, 906:24, 913:1, 929:12, 932:21, 943:1, 1005:3, 1005:6,</p>	<p>1005:10, 1005:11, 1005:16, 1005:23, 1006:1, 1006:3, 1006:5</p> <p>direct [6] - 796:25, 840:6, 855:20, 883:6, 883:12, 979:7</p> <p>directing [1] - 982:20</p> <p>direction [7] - 869:2, 871:24, 871:25, 890:14, 955:17, 955:18, 955:20</p> <p>directly [1] - 891:7</p> <p>disappear [1] - 821:8</p> <p>discuss [2] - 999:10, 999:20</p> <p>discussed [1] - 985:5</p> <p>discussion [1] - 854:22</p> <p>disease [2] - 875:2, 875:7</p> <p>diseases [1] - 873:12</p> <p>dismiss [1] - 903:20</p> <p>dismissed [1] - 795:15</p> <p>display [1] - 907:23</p> <p>distance [3] - 885:2, 886:4, 943:12</p> <p>district [1] - 847:17</p> <p>DISTRICT [3] - 784:1, 784:1, 784:12</p> <p>divided [1] - 983:20</p> <p>DNA [2] - 899:4, 900:19</p> <p>doctor [2] - 876:10, 877:5</p> <p>Doctor [3] - 881:19, 883:1, 887:10</p> <p>document [17] - 785:6, 785:7, 785:12, 876:14, 876:18, 888:17, 917:11, 923:18, 924:5, 928:11, 929:3, 950:4, 970:4, 972:23, 973:9, 973:13, 974:7</p> <p>documents [7] - 876:10, 876:13, 888:18, 969:11, 974:8, 1001:4, 1001:7</p> <p>doe [1] - 945:8</p> <p>dollar [3] - 816:3, 838:9, 838:10</p> <p>Dollar [1] - 836:17</p> <p>dollars [16] - 815:15, 815:16, 815:21, 815:22, 816:3, 826:11, 826:12, 827:4, 827:5, 828:5, 956:21, 956:23, 978:10, 985:17</p> <p>done [7] - 848:14, 848:16, 848:18, 900:15, 900:20, 953:5, 974:20</p> <p>door [11] - 835:1, 936:17, 944:3, 944:4, 944:5, 944:6, 977:11, 977:12, 977:13</p> <p>doors [1] - 977:10</p> <p>double [2] - 1002:10</p> <p>down [17] - 806:17, 822:23, 871:14, 871:25, 872:2, 872:13, 887:10, 912:15, 913:4, 915:3, 932:11, 936:21, 963:8, 977:12, 984:19, 984:24, 985:2</p> <p>dozen [1] - 813:10</p> <p>Dr [3] - 872:8, 874:19, 874:23</p> <p>draft [1] - 1000:4</p> <p>drank [1] - 864:1</p> <p>Dre [17] - 817:15, 824:24, 825:3, 825:4, 859:21, 940:13, 940:14, 940:16, 940:18, 940:22, 941:1, 993:6, 993:7, 993:8, 993:13, 993:16, 993:18</p> <p>drink [2] - 864:3, 864:17</p> <p>drive [7] - 836:20, 837:7, 918:5, 918:12, 918:14, 918:16, 918:17</p> <p>driver's [1] - 930:3</p> <p>driveway [2] - 826:23, 827:24</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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<p>driving [2] - 836:17</p> <p>drop [4] - 792:17, 792:18, 933:14, 958:7</p> <p>drove [1] - 829:17</p> <p>drug [3] - 991:10, 992:5, 992:11</p> <p>drugs [5] - 788:14, 788:18, 873:21, 991:11, 1000:23</p> <p>DuCharme [27] - 784:16, 932:8, 937:25, 967:14, 968:8, 969:11, 969:15, 970:18, 971:9, 971:20, 972:7, 973:8, 973:18, 978:25, 979:4, 982:2, 982:12, 990:10, 996:12, 996:17, 996:20, 996:24, 998:13, 1001:12, 1002:14, 1002:19, 1003:4</p> <p>duly [7] - 786:4, 807:2, 872:11, 887:16, 906:22, 912:23, 932:17</p> <p>duration [1] - 1000:14</p> <p>during [13] - 814:4, 825:12, 826:8, 869:22, 869:23, 892:7, 908:9, 911:1, 918:10, 963:22, 999:10, 1000:1, 1003:23</p> <p>duties [3] - 873:18, 873:19, 888:15</p> <p>DVD's [5] - 863:7, 863:8, 863:12, 863:15, 863:18</p>	<p>entering [1] - 996:3</p> <p>enterprise [3] - 1000:13, 1000:16, 1000:22</p> <p>entire [1] - 923:18</p> <p>entrance [12] - 877:21, 877:22, 878:2, 878:15, 878:18, 878:21, 880:1, 880:25, 884:25, 886:2, 886:15, 886:19</p> <p>entry [1] - 880:20</p> <p>envelope [1] - 879:14</p> <p>envelopes [1] - 894:19</p> <p>Erasmus [7] - 964:20, 964:24, 965:2, 965:5, 965:12, 965:20, 968:2</p> <p>especially [1] - 998:18</p> <p>ESQ [1] - 784:19</p> <p>established [1] - 971:8</p> <p>estimate [1] - 921:10</p> <p>Eve [1] - 825:25</p> <p>evening [2] - 963:15, 963:20</p> <p>eventually [3] - 808:20, 820:9, 831:19</p> <p>everyday [2] - 944:17, 991:24</p> <p>evidence [84] - 785:13, 790:23, 811:18, 814:20, 816:11, 876:21, 877:2, 877:4, 877:17, 888:19, 889:10, 890:1, 890:2, 890:6, 890:9, 890:17, 891:9, 891:23, 892:2, 892:7, 892:11, 892:15, 893:1, 893:12, 893:14, 893:16, 893:20, 898:5, 898:6, 898:24, 898:25, 899:2, 899:4, 899:5, 899:17, 899:18, 900:19, 901:8, 902:20, 909:6, 911:6, 917:19, 917:24, 923:17, 923:24, 923:25, 928:4, 929:9, 931:8, 931:16, 937:24, 938:1, 940:12, 941:24, 943:25, 945:25, 948:18, 950:1, 950:3, 962:3, 965:17, 967:13, 967:15, 968:3, 968:24, 970:19, 971:10, 971:24, 972:5, 972:12, 973:1, 973:5, 973:21, 974:11, 974:14, 974:19, 982:14, 993:18, 997:13, 1001:2, 1001:4, 1001:18, 1001:20, 1002:24</p> <p>evidentiary [1] - 998:22</p> <p>exact [2] - 821:25, 856:11</p> <p>exactly [9] - 814:16, 841:25, 858:15, 930:1, 955:19, 958:21, 958:23, 964:12</p> <p>exam [1] - 972:25</p> <p>examination [16] - 796:25, 840:6, 855:20, 869:13, 870:3, 877:13, 877:15, 877:20, 883:6, 883:12, 978:16, 979:7, 999:21, 1000:1, 1002:17</p> <p>EXAMINATION [37] - 786:12, 796:8, 807:4, 839:11, 869:11, 872:22, 876:1, 882:24, 887:21, 894:23, 901:20, 906:24, 911:15, 913:1, 928:12, 929:12, 932:21, 943:1, 979:3, 982:1, 1005:3, 1005:4, 1005:6, 1005:7, 1005:8, 1005:10, 1005:11, 1005:13, 1005:16, 1005:18, 1005:20, 1005:23, 1005:24, 1006:1, 1006:2, 1006:3, 1006:5</p> <p>examine [3] - 881:4, 881:8, 894:15</p> <p>examined [9] - 786:5, 807:3, 872:11, 879:23, 879:25, 887:16, 906:23, 912:24, 932:17</p> <p>Examiner [3] - 873:2, 873:5, 873:15</p>	<p>example [3] - 902:5, 992:18, 993:6</p> <p>except [3] - 850:6, 852:19, 901:7</p> <p>exception [1] - 1000:2</p> <p>exchange [1] - 994:1</p> <p>exchanged [1] - 993:25</p> <p>excluding [1] - 1001:20</p> <p>excuse [8] - 801:13, 810:18, 889:8, 908:23, 923:13, 947:13, 949:22, 954:21</p> <p>excused [5] - 806:19, 861:10, 871:15, 912:16, 932:12</p> <p>exhibit [3] - 881:19, 966:9, 990:13</p> <p>Exhibit [100] - 787:13, 790:24, 791:5, 791:9, 791:13, 791:19, 792:2, 792:18, 793:6, 793:13, 793:18, 793:21, 793:22, 803:20, 811:10, 811:11, 811:17, 814:19, 816:12, 816:15, 816:17, 817:1, 817:3, 817:12, 819:5, 819:9, 820:23, 821:1, 832:4, 833:6, 837:12, 838:8, 838:21, 863:3, 864:1, 876:11, 876:20, 877:25, 878:7, 881:20, 889:10, 890:11, 890:16, 891:9, 891:23, 892:11, 892:23, 893:4, 893:17, 894:2, 898:11, 898:16, 907:19, 908:11, 909:6, 917:10, 917:18, 922:6, 923:25, 927:11, 928:4, 936:1, 936:23, 936:24, 937:12, 937:13, 937:24, 938:14, 938:25, 939:11, 939:25, 941:5, 941:6, 941:20, 941:24, 943:25, 944:20, 944:25, 945:25, 949:12, 949:14, 949:23, 950:2, 962:3, 965:10, 965:11, 965:16, 966:7, 967:13, 967:21, 969:23, 971:22, 971:25, 982:15, 990:10, 996:22, 996:23, 996:24, 1001:16, 1006:13</p> <p>Exhibit's [2] - 940:12, 967:22</p> <p>Exhibits [6] - 877:3, 893:15, 931:1, 964:14, 1006:8, 1006:10</p> <p>exhibits [2] - 968:23, 1001:1</p> <p>EXHIBITS [1] - 1006:6</p> <p>exit [4] - 877:22, 878:19, 880:2, 880:21</p> <p>exited [5] - 879:18, 879:21, 903:14, 952:22, 999:16</p> <p>expect [2] - 998:21, 1003:7</p> <p>experience [1] - 897:2</p> <p>expert [2] - 874:20, 874:22</p> <p>explain [1] - 826:14</p> <p>explained [1] - 865:10</p> <p>explore [2] - 1000:2, 1000:6</p> <p>external [4] - 877:13, 877:15, 877:17, 877:20</p> <p>extra [6] - 825:11, 871:22, 902:24, 970:1, 970:2</p>
E		
<p>early [13] - 797:22, 813:23, 822:15, 832:17, 834:20, 867:16, 937:3, 941:15, 941:17, 962:22, 962:25, 963:2</p> <p>East [5] - 784:17, 784:22, 839:17, 907:6, 907:9</p> <p>eastbound [2] - 891:11, 892:1</p> <p>EASTERN [1] - 784:1</p> <p>easy [2] - 827:17, 899:11</p> <p>edge [3] - 880:24, 890:21, 999:12</p> <p>Education [2] - 923:4, 997:24</p> <p>EDWARD [1] - 784:16</p> <p>EE [5] - 966:8, 966:10, 966:11, 967:13, 1006:19</p> <p>effectively [1] - 1004:3</p> <p>efforts [1] - 973:10</p> <p>eight [4] - 830:24, 873:25, 882:3, 952:9</p> <p>either [9] - 815:5, 818:9, 822:10, 848:12, 852:8, 867:16, 880:2, 902:2, 976:3</p> <p>elementary [6] - 921:20, 921:21, 921:22, 922:1, 922:2, 923:8</p> <p>eleven [1] - 864:20</p> <p>employed [1] - 914:12</p> <p>employee [1] - 860:6</p> <p>employment [2] - 840:7, 840:10</p> <p>encounters [1] - 935:22</p> <p>end [9] - 785:21, 797:7, 822:18, 843:13, 903:11, 921:12, 921:13, 963:8</p> <p>ended [1] - 861:19</p> <p>English [1] - 796:14</p> <p>enjoy [1] - 903:12</p> <p>entered [3] - 879:17, 879:21, 879:25</p>		
F		
		<p>fabric [1] - 894:12</p> <p>face [2] - 940:8, 969:11</p> <p>facing [3] - 890:14, 890:15, 892:1</p> <p>fact [8] - 809:12, 810:3, 813:11, 841:22, 849:22, 854:16, 867:23, 890:11</p> <p>fair [3] - 968:15, 983:19, 986:9</p>

<p>fairly ^[1] - 999:10</p> <p>Fairview ^[1] - 837:22</p> <p>fall ^[1] - 981:11</p> <p>familiar ^[5] - 918:18, 918:22, 934:17, 934:19, 982:15</p> <p>families ^[1] - 819:14</p> <p>family ^[9] - 831:5, 908:5, 908:17, 910:15, 934:4, 977:14, 977:21, 987:25, 988:19</p> <p>far ^[2] - 904:17, 943:11</p> <p>fares ^[1] - 836:19</p> <p>fast ^[2] - 851:17, 851:18</p> <p>Fat ^[1] - 817:15</p> <p>fatal ^[2] - 882:16, 882:17</p> <p>father ^[12] - 860:19, 862:9, 862:12, 914:23, 916:18, 919:12, 933:21, 934:1, 935:8, 945:16, 945:18, 945:22</p> <p>Fax ^[1] - 784:23</p> <p>FBI ^[6] - 790:13, 790:16, 808:3, 846:6, 846:21, 985:8</p> <p>February ^[1] - 797:17</p> <p>federal ^[2] - 808:22, 848:16</p> <p>Feds ^[1] - 846:18</p> <p>feet ^[3] - 786:21, 862:25, 883:10</p> <p>fellow ^[1] - 935:22</p> <p>felt ^[2] - 898:23, 998:7</p> <p>few ^[17] - 790:13, 809:25, 810:3, 840:9, 865:13, 883:4, 895:1, 902:25, 909:3, 909:4, 945:17, 950:25, 951:12, 976:9, 980:20, 981:12, 986:6</p> <p>field ^[5] - 900:15, 900:18, 915:8, 915:10, 916:7</p> <p>fifteen ^[1] - 871:22</p> <p>fifty ^[2] - 956:21, 956:23</p> <p>fight ^[3] - 807:21, 807:25, 823:4</p> <p>figured ^[4] - 831:6, 846:5, 846:8, 846:11</p> <p>file ^[1] - 851:6</p> <p>Filene's ^[3] - 840:14, 840:16, 840:25</p> <p>fill ^[1] - 900:20</p> <p>finally ^[2] - 793:18, 817:3</p> <p>findings ^[1] - 877:20</p> <p>fine ^[4] - 861:9, 971:20, 978:25, 1003:18</p> <p>fingerprints ^[1] - 900:18</p> <p>finish ^[3] - 831:7, 988:23, 1003:10</p> <p>finished ^[2] - 889:1, 953:4</p> <p>fire ^[2] - 975:21, 978:6</p> <p>firearm ^[1] - 902:4</p> <p>fired ^[8] - 880:8, 880:16, 885:1, 885:13, 886:4, 887:3, 902:3, 989:14</p> <p>first ^[47] - 786:4, 789:7, 790:15, 791:24, 796:14, 796:16, 807:2, 808:13, 809:22, 816:5, 841:9, 851:19, 851:22, 865:3, 876:14, 877:8, 877:12, 877:13, 879:12, 879:23, 887:16, 903:25, 906:22, 910:20, 912:23, 928:14, 929:20, 934:13, 935:1, 936:7, 936:8, 936:9, 936:10, 936:12, 954:20, 962:25, 977:11, 978:3, 980:23, 981:1, 981:3, 981:7, 990:17, 990:18, 1000:14,</p>	<p>1000:18, 1002:23</p> <p>five ^[23] - 804:14, 804:15, 815:14, 815:21, 815:22, 830:18, 830:19, 830:20, 835:17, 838:9, 883:10, 894:18, 902:2, 902:13, 914:19, 942:5, 951:8, 967:9, 984:16, 984:17, 986:7</p> <p>five-five ^[1] - 942:5</p> <p>five-six ^[3] - 804:14, 804:15, 942:5</p> <p>fix ^[3] - 827:23, 828:1, 828:6</p> <p>flash ^[1] - 893:7</p> <p>Flatbush ^[4] - 839:17, 907:6, 907:9, 947:1</p> <p>Florida ^[1] - 911:22</p> <p>folks ^[4] - 923:19, 931:5, 971:17, 996:13</p> <p>following ^[1] - 889:1</p> <p>follows ^[7] - 786:5, 807:3, 872:12, 887:17, 906:23, 912:24, 932:18</p> <p>followup ^[1] - 904:10</p> <p>Fonrose ^[8] - 975:9, 976:1, 976:10, 977:3, 977:6, 987:10, 987:23, 990:6</p> <p>football ^[1] - 807:25</p> <p>forensic ^[7] - 872:25, 873:8, 873:10, 873:11, 874:8, 874:20, 888:19</p> <p>form ^[8] - 790:2, 881:25, 882:11, 900:1, 925:14, 929:5, 978:11</p> <p>forth ^[2] - 831:5, 836:21</p> <p>forty ^[2] - 913:11, 914:19</p> <p>forty-five ^[1] - 914:19</p> <p>forty-seven ^[1] - 913:11</p> <p>forward ^[1] - 903:23</p> <p>forwarded ^[1] - 900:16</p> <p>four ^[24] - 789:2, 801:10, 801:11, 802:16, 807:11, 820:1, 820:16, 834:14, 836:2, 853:21, 853:23, 854:5, 857:3, 857:4, 857:5, 857:7, 857:10, 874:5, 876:10, 895:5, 951:8, 986:7</p> <p>fourth ^[3] - 876:18, 926:22, 975:7</p> <p>Foy ^[25] - 808:16, 809:21, 809:22, 810:6, 810:14, 844:4, 844:6, 844:11, 844:19, 844:22, 845:6, 845:24, 847:2, 847:16, 847:19, 848:6, 851:8, 851:19, 851:22, 852:7, 853:19, 865:3, 865:11, 906:7</p> <p>fracturing ^[1] - 879:19</p> <p>frame ^[1] - 1003:12</p> <p>Franklin ^[1] - 951:1</p> <p>FREDERIC ^[1] - 784:11</p> <p>frequently ^[1] - 857:1</p> <p>friend ^[10] - 790:11, 814:3, 826:24, 845:12, 845:14, 858:6, 937:4, 940:7, 940:8, 995:3</p> <p>friends ^[3] - 794:11, 831:6, 944:22</p> <p>front ^[16] - 801:16, 814:17, 828:18, 828:20, 870:24, 870:25, 879:18, 879:21, 879:23, 889:6, 889:13, 891:25, 894:18, 934:9, 957:25, 990:12</p> <p>full ^[3] - 921:9, 921:13, 988:11</p> <p>fully ^[1] - 999:9</p> <p>future ^[1] - 998:19</p>	<p style="text-align: center;">G</p> <p>game ^[1] - 853:21</p> <p>garments ^[2] - 881:2, 887:2</p> <p>general ^[2] - 1003:12, 1003:16</p> <p>gentleman ^[11] - 796:11, 814:4, 818:16, 831:23, 832:25, 833:2, 833:5, 833:14, 869:23, 914:9, 919:19</p> <p>gentlemen ^[5] - 847:10, 884:22, 899:9, 947:17, 975:3</p> <p>given ^[2] - 897:3, 958:11</p> <p>gland ^[2] - 879:2, 882:10</p> <p>glass ^[2] - 835:9, 898:21</p> <p>glasses ^[1] - 919:13</p> <p>glassine ^[1] - 894:19</p> <p>global ^[1] - 965:14</p> <p>Goldsmith ^[15] - 785:23, 806:15, 851:15, 854:17, 854:24, 855:5, 855:7, 876:25, 887:7, 898:9, 902:19, 904:2, 904:4, 906:3, 932:8</p> <p>goldsmith ^[2] - 901:18, 904:3</p> <p>GOLDSMITH ^[62] - 784:16, 785:24, 786:13, 787:13, 790:20, 796:4, 799:17, 799:20, 799:24, 806:16, 806:21, 807:5, 811:8, 811:16, 819:2, 837:1, 839:9, 842:2, 869:10, 869:12, 871:3, 871:11, 871:17, 872:8, 872:23, 874:19, 876:2, 876:8, 876:20, 877:24, 887:8, 887:22, 892:21, 893:11, 894:20, 898:14, 901:19, 901:21, 902:14, 902:21, 904:7, 906:4, 906:10, 911:14, 911:16, 912:12, 917:20, 923:20, 923:23, 928:5, 928:8, 928:13, 929:2, 931:7, 932:10, 949:25, 965:18, 1003:7, 1003:13, 1005:12, 1005:17, 1005:21</p> <p>government ^[39] - 785:24, 806:21, 811:5, 811:16, 811:25, 812:18, 812:24, 841:22, 849:2, 852:20, 853:20, 855:14, 869:18, 872:8, 874:19, 876:20, 887:12, 893:11, 902:20, 902:21, 903:18, 903:25, 911:8, 968:6, 968:17, 968:21, 969:10, 970:16, 971:7, 971:13, 973:14, 973:16, 978:15, 978:23, 1000:2, 1001:2, 1001:10, 1003:6, 1003:9</p> <p>Government ^[60] - 784:15, 787:13, 790:24, 791:5, 791:9, 791:13, 791:19, 792:2, 792:18, 793:6, 793:13, 793:18, 793:21, 803:20, 811:10, 811:11, 811:16, 814:19, 816:12, 816:15, 816:17, 817:1, 817:3, 817:12, 819:5, 819:9, 820:23, 821:1, 832:3, 833:6, 876:11, 877:3, 877:25, 878:7, 881:19, 889:10, 890:11, 890:16, 891:9, 891:23, 892:11, 892:23, 893:4, 893:15, 893:17, 894:2, 898:10, 898:16, 907:19, 908:10, 909:6, 943:25, 944:20, 944:25, 945:25, 982:15, 996:22, 1006:8, 1006:10</p> <p>government's ^[3] - 785:21, 902:23, 1000:21</p> <p>Government's ^[19] - 837:11, 838:21, 863:3, 864:1, 936:1, 936:23, 936:24,</p>
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<p>937:12, 937:13, 937:24, 938:13, 938:24, 939:10, 939:24, 940:12, 941:5, 941:6, 941:19, 941:24</p> <p>grade [1] - 925:23</p> <p>grams [4] - 952:5, 952:8, 952:10, 952:11</p> <p>grandma [1] - 934:21</p> <p>grandma's [1] - 936:17</p> <p>grandmother [13] - 910:13, 910:16, 910:22, 934:20, 943:4, 943:5, 943:14, 945:9, 945:14, 945:23, 956:13, 960:25, 977:21</p> <p>grandmother's [10] - 943:10, 948:9, 948:13, 956:14, 956:16, 963:6, 963:12, 965:8, 975:6, 988:18</p> <p>greater [1] - 886:4</p> <p>green [1] - 914:10</p> <p>grew [1] - 907:5</p> <p>Grissom [3] - 922:4, 926:3, 926:10</p> <p>grocery [1] - 814:22</p> <p>ground [6] - 795:2, 795:3, 891:5, 987:17, 987:18</p> <p>grounds [1] - 1001:11</p> <p>group [4] - 826:5, 870:24, 939:8, 964:13</p> <p>grow [1] - 907:4</p> <p>growing [2] - 919:1, 936:19</p> <p>guess [8] - 797:12, 834:4, 855:11, 897:22, 926:15, 935:1, 983:2, 984:11</p> <p>guilty [7] - 808:22, 809:2, 809:4, 810:15, 810:21, 811:6, 811:14</p> <p>GUI TERREZ [1] - 1005:9</p> <p>Gutierrez [5] - 872:9, 872:20, 874:19, 874:23, 877:5</p> <p>gun [40] - 825:14, 825:16, 825:22, 825:24, 826:1, 827:18, 871:8, 878:14, 880:8, 880:9, 880:11, 880:15, 880:16, 885:1, 885:4, 886:3, 887:3, 902:11, 975:5, 975:14, 975:16, 975:18, 975:21, 975:23, 987:13, 988:20, 988:22, 988:25, 989:2, 989:7, 989:11, 989:16, 989:20, 989:24, 990:3, 990:5, 990:8, 997:19</p> <p>guns [3] - 901:22, 901:25, 990:9</p> <p>gunshot [12] - 876:16, 876:17, 878:2, 878:3, 878:15, 878:18, 878:19, 879:17, 880:25, 882:9, 882:15, 882:17</p> <p>guy [19] - 792:25, 817:6, 822:16, 822:23, 823:3, 862:9, 868:22, 940:5, 950:18, 951:1, 951:11, 951:13, 957:25, 959:18, 959:19, 986:10, 993:25</p> <p>guys [7] - 789:2, 802:16, 994:5, 995:4, 995:5, 995:7, 995:9</p>	<p>957:5, 957:6, 957:12, 957:14, 957:16, 957:19, 957:23, 957:25, 959:13, 959:14, 963:14, 984:22, 985:4, 985:5</p> <p>Hall [5] - 965:2, 965:5, 965:12, 965:20, 968:2</p> <p>hallway [2] - 977:10, 977:12</p> <p>hand [3] - 822:1, 876:10, 1000:4</p> <p>handed [1] - 800:19</p> <p>handgun [3] - 835:14, 902:6, 988:14</p> <p>handing [2] - 876:25, 949:12</p> <p>handle [1] - 889:2</p> <p>hands [5] - 786:21, 822:24, 881:4, 881:6, 881:7</p> <p>handwriting [12] - 927:18, 927:19, 928:18, 928:20, 928:23, 929:4, 996:21, 997:1, 997:3, 997:5, 997:9</p> <p>handwritings [1] - 928:25</p> <p>handwritten [2] - 890:3, 896:13</p> <p>hang [8] - 940:20, 948:5, 994:5, 995:4, 995:5, 995:7, 995:9, 995:10</p> <p>hanging [1] - 793:12</p> <p>happy [1] - 851:1</p> <p>hard [1] - 992:14</p> <p>hate [1] - 838:24</p> <p>head [8] - 835:9, 835:16, 878:13, 879:6, 881:8, 881:10, 881:11, 998:16</p> <p>headed [1] - 955:18</p> <p>heading [1] - 955:20</p> <p>hear [17] - 785:21, 786:24, 792:16, 833:16, 833:19, 842:19, 842:20, 872:13, 903:4, 933:15, 941:1, 945:20, 950:17, 951:24, 954:12, 980:13, 998:23</p> <p>heard [28] - 827:13, 828:19, 833:14, 833:18, 833:19, 833:23, 834:21, 834:22, 835:20, 835:23, 835:24, 841:24, 842:21, 845:17, 849:13, 849:14, 849:16, 860:10, 865:19, 865:20, 869:14, 869:25, 902:22, 991:4, 991:5, 1003:25, 1004:4</p> <p>heart [1] - 879:6</p> <p>height [5] - 862:17, 877:16, 883:7, 883:9, 883:10</p> <p>hello [1] - 954:13</p> <p>Help [1] - 977:23</p> <p>help [2] - 812:10, 852:20</p> <p>helped [1] - 996:5</p> <p>helpful [2] - 812:3, 812:4</p> <p>hidden [1] - 795:5</p> <p>high [3] - 840:18, 922:1, 922:3</p> <p>High [13] - 921:17, 921:18, 929:23, 930:1, 962:10, 962:11, 963:12, 964:21, 964:23, 965:2, 965:5, 965:20, 970:21</p> <p>higher [2] - 882:5, 951:13</p> <p>Hill [1] - 934:6</p> <p>himself [2] - 844:5, 854:23</p> <p>Hispanics [1] - 824:9</p> <p>history [4] - 840:7, 840:10, 965:14, 967:9</p> <p>hit [2] - 828:23, 871:25</p> <p>HM [1] - 785:9</p> <p>hold [3] - 903:8, 927:25, 932:4</p>	<p>holding [1] - 977:15</p> <p>hole [3] - 893:10, 894:12</p> <p>holidays [2] - 908:9, 936:20</p> <p>Home [4] - 971:14, 971:21, 972:10, 972:12</p> <p>home [10] - 836:7, 857:15, 864:22, 868:15, 908:4, 914:3, 920:8, 932:5, 963:19, 998:17</p> <p>homicide [7] - 873:20, 875:7, 881:24, 896:4, 896:6, 896:10, 896:19</p> <p>homogenous [1] - 885:6</p> <p>honest [3] - 810:10, 845:7, 850:23</p> <p>honestly [1] - 847:11</p> <p>Honor [59] - 790:3, 790:20, 794:8, 796:7, 806:16, 811:8, 833:22, 834:5, 839:9, 842:2, 861:7, 861:15, 861:17, 869:10, 871:3, 871:11, 871:13, 871:18, 872:8, 876:8, 882:23, 887:8, 887:12, 892:21, 894:20, 894:22, 901:19, 902:14, 903:19, 904:23, 905:1, 906:4, 911:14, 912:14, 912:18, 917:17, 923:20, 928:3, 928:6, 928:8, 929:2, 931:7, 932:10, 937:23, 953:9, 968:4, 972:6, 972:11, 973:18, 978:25, 980:7, 982:12, 988:23, 990:11, 996:20, 999:22, 1001:6, 1002:14</p> <p>Honor(perusing) [1] - 947:13</p> <p>HONORABLE [1] - 784:11</p> <p>hoody [1] - 948:8</p> <p>hop [1] - 976:7</p> <p>hopes [1] - 848:24</p> <p>hopped [1] - 829:16</p> <p>Hospital [2] - 874:6, 874:7</p> <p>hot [1] - 826:15</p> <p>hour [9] - 888:25, 959:13, 959:14, 963:14, 978:10, 1003:13, 1003:17</p> <p>hours [3] - 809:14, 896:16, 960:9</p> <p>house [42] - 808:16, 821:21, 821:24, 821:25, 826:23, 844:11, 844:19, 844:22, 845:25, 908:4, 914:2, 914:4, 914:6, 943:10, 945:19, 945:21, 948:7, 948:9, 948:13, 956:12, 956:14, 956:16, 961:12, 962:16, 963:5, 963:6, 963:12, 975:6, 975:7, 975:8, 975:12, 975:13, 977:4, 977:7, 977:8, 977:9, 987:19, 988:18</p> <p>household [1] - 949:5</p> <p>houses [1] - 975:8</p> <p>Hulick [1] - 895:22</p> <p>hundred [8] - 815:14, 816:3, 827:5, 827:17, 828:5, 983:16, 983:19</p> <p>hurt [2] - 852:21, 853:13</p> <p>husband [1] - 920:17</p> <p>hustle [1] - 835:16</p> <p>hustled [1] - 854:1</p> <p>hustling [15] - 807:15, 807:16, 820:3, 820:5, 822:15, 823:14, 823:21, 823:22, 824:18, 824:19, 824:23, 826:2, 834:19, 850:25, 853:23</p> <p>hydrants [1] - 978:6</p>
H		
<p>H-U-L-I-C-K [1] - 895:22</p> <p>hair [1] - 934:15</p> <p>haircut [1] - 934:8</p> <p>half [24] - 801:7, 808:2, 888:1, 921:9, 947:19, 948:15, 948:17, 948:18, 957:3,</p>		

<p>I</p> <p>I.D ^[1] - 1001:3</p> <p>idea ^[10] - 803:5, 843:4, 843:9, 846:5, 847:25, 850:25, 860:11, 995:14, 995:24, 999:5</p> <p>identification ^[15] - 785:11, 785:15, 917:10, 917:18, 922:6, 927:10, 937:12, 949:12, 949:23, 965:10, 965:16, 967:21, 969:23, 978:11, 978:13</p> <p>identified ^[3] - 789:17, 819:3, 929:10</p> <p>identify ^[9] - 888:18, 916:15, 917:11, 935:25, 949:14, 965:11, 967:4, 970:4, 1001:14</p> <p>identifying ^[4] - 890:5, 910:20, 910:22, 934:1</p> <p>identity ^[1] - 900:2</p> <p>II ^[3] - 873:6, 873:7, 873:8</p> <p>imprecise ^[1] - 882:6</p> <p>inch ^[1] - 862:17</p> <p>inches ^[7] - 880:10, 880:17, 883:10, 885:2, 885:4, 885:10, 886:5</p> <p>incident ^[8] - 828:18, 829:3, 834:15, 849:12, 849:14, 849:16, 867:25, 870:9</p> <p>inclined ^[1] - 905:5</p> <p>include ^[2] - 812:5, 873:19</p> <p>including ^[1] - 822:8</p> <p>income ^[2] - 851:2, 851:6</p> <p>INDEX ^[1] - 1005:1</p> <p>indicate ^[11] - 884:2, 884:5, 885:1, 885:3, 885:6, 886:12, 886:14, 924:8, 924:22, 925:1, 962:4</p> <p>indicated ^[5] - 883:6, 926:18, 926:19, 926:21, 950:4</p> <p>indicates ^[6] - 918:2, 925:6, 926:7, 926:12, 926:23, 929:15</p> <p>indicating ^[3] - 894:11, 898:25, 899:2</p> <p>Indicating ^[2] - 907:19, 910:19</p> <p>indicating ^[1] - 882:14</p> <p>indication ^[1] - 925:14</p> <p>indicted ^[1] - 852:18</p> <p>indictment ^[2] - 1000:15, 1000:19</p> <p>individual ^[1] - 876:3</p> <p>inflicted ^[1] - 875:9</p> <p>information ^[2] - 835:8, 928:1</p> <p>informed ^[2] - 896:4, 905:2</p> <p>initial ^[5] - 809:18, 809:20, 889:25, 892:8, 899:19</p> <p>injured ^[1] - 879:2</p> <p>injuries ^[5] - 873:12, 877:17, 881:10, 881:11, 882:10</p> <p>injuring ^[1] - 879:19</p> <p>injury ^[6] - 875:2, 885:19, 885:23, 886:8, 886:10, 886:13</p> <p>Innis ^[1] - 908:5</p> <p>Innovations ^[1] - 973:25</p> <p>inquire ^[2] - 796:6, 978:23</p> <p>inserted ^[6] - 892:16, 893:1, 893:6, 893:9, 893:21, 894:5</p> <p>inside ^[21] - 801:18, 801:20, 801:21,</p>	<p>801:24, 802:1, 802:4, 802:5, 802:18, 803:4, 803:16, 803:21, 804:5, 804:7, 829:19, 832:25, 835:9, 894:12, 897:19, 898:21, 975:13, 983:5</p> <p>installation ^[2] - 973:11, 974:1</p> <p>Installation ^[1] - 973:25</p> <p>instance ^[2] - 877:19, 929:20</p> <p>instead ^[1] - 812:16</p> <p>instructions ^[3] - 999:2, 1003:23, 1003:24</p> <p>integrity ^[1] - 1000:11</p> <p>intended ^[1] - 785:7</p> <p>interest ^[2] - 848:11, 852:23</p> <p>interested ^[1] - 843:11</p> <p>interfere ^[1] - 999:9</p> <p>intervention ^[1] - 877:18</p> <p>interview ^[8] - 809:5, 809:12, 809:14, 809:17, 809:18, 809:20, 810:6, 810:12</p> <p>interviewed ^[3] - 790:12, 790:15, 810:8</p> <p>intimidate ^[1] - 823:3</p> <p>introduce ^[4] - 785:5, 785:7, 971:16, 1001:2</p> <p>introduced ^[12] - 814:3, 814:8, 909:5, 917:18, 928:4, 937:24, 940:11, 941:24, 943:25, 945:25, 962:3, 967:13</p> <p>investigate ^[1] - 888:18</p> <p>investigating ^[2] - 866:24, 873:19</p> <p>investigation ^[1] - 892:8</p> <p>involved ^[3] - 814:2, 939:19, 941:12</p> <p>irregular ^[1] - 880:3</p> <p>issue ^[4] - 971:8, 971:9, 978:16, 1002:13</p> <p>issued ^[1] - 918:3</p> <p>item ^[14] - 892:14, 899:6, 899:14, 899:23, 900:3, 900:4, 900:6, 900:8, 900:21, 900:24, 901:2, 901:5, 901:6, 977:24</p> <p>items ^[1] - 900:12</p> <p>itself ^[3] - 815:11, 885:25, 900:17</p> <p>J</p> <p>J-A-M-E-S ^[1] - 906:20</p> <p>jacket ^[3] - 881:3, 894:13, 894:15</p> <p>jail ^[16] - 813:14, 843:9, 848:12, 848:13, 848:14, 848:18, 848:24, 851:10, 854:1, 854:8, 854:10, 854:14, 854:18, 939:23, 987:3, 987:7</p> <p>jails ^[1] - 997:24</p> <p>Jamaica ^[12] - 799:6, 799:8, 913:15, 913:17, 913:18, 934:5, 934:7, 934:14, 964:20, 964:23, 966:1, 967:11</p> <p>james ^[1] - 903:24</p> <p>James ^[12] - 887:13, 887:20, 904:8, 904:9, 906:5, 906:6, 906:17, 906:19, 907:1, 907:2, 911:17</p> <p>JAMES ^[3] - 906:21, 1005:15, 1005:22</p> <p>January ^[1] - 1000:16</p> <p>Joaquin ^[2] - 872:9, 872:20</p>	<p>JOAQUIN ^[1] - 1005:9</p> <p>job ^[8] - 810:6, 814:5, 841:1, 859:19, 859:20, 899:25, 949:8, 973:10</p> <p>jobs ^[2] - 840:23, 983:21</p> <p>Joe ^[37] - 816:9, 817:10, 817:11, 817:13, 821:16, 823:7, 825:15, 826:6, 826:7, 826:16, 826:18, 826:21, 826:24, 827:13, 827:16, 827:17, 827:24, 834:8, 859:16, 859:17, 859:21, 870:4, 909:3, 909:25, 938:15, 938:16, 938:18, 938:20, 938:22, 950:25, 951:3, 951:5, 951:12, 951:17, 986:18, 986:20, 994:3</p> <p>John ^[10] - 921:17, 921:18, 929:23, 930:1, 962:10, 962:11, 962:21, 963:12, 964:20, 970:21</p> <p>join ^[2] - 888:4, 888:13</p> <p>joked ^[1] - 831:5</p> <p>Jones ^[1] - 909:21</p> <p>Joseph ^[1] - 933:5</p> <p>Josh ^[14] - 816:9, 816:16, 826:24, 827:22, 828:1, 834:4, 858:5, 858:8, 858:21, 858:23, 940:1, 940:2, 940:4</p> <p>Joshua ^[1] - 814:3</p> <p>Judaism ^[1] - 967:23</p> <p>JUDGE ^[1] - 784:12</p> <p>judge ^[13] - 812:1, 812:9, 812:12, 812:15, 813:1, 844:5, 854:23, 855:3, 855:4, 930:25, 969:8, 974:10, 974:21</p> <p>Judge ^[4] - 786:8, 786:9, 989:3, 996:17</p> <p>judicial ^[1] - 1003:2</p> <p>Judy ^[4] - 904:12, 912:19, 912:21, 913:9</p> <p>JUDY ^[2] - 912:22, 1005:25</p> <p>July ^[1] - 888:5</p> <p>jumps ^[1] - 976:14</p> <p>June ^[5] - 797:5, 985:10, 997:11, 997:14, 1000:16</p> <p>junior ^[2] - 922:1, 922:3</p> <p>jurors ^[8] - 785:3, 785:16, 969:17, 972:1, 980:19, 983:22, 984:10, 984:12</p> <p>jury ^[26] - 784:12, 861:10, 861:12, 861:13, 861:14, 877:6, 884:22, 893:18, 894:2, 899:9, 902:22, 903:22, 905:1, 906:12, 917:23, 924:5, 947:17, 952:22, 968:7, 975:3, 997:13, 998:14, 1000:13, 1003:20, 1003:23, 1004:3</p> <p>Jury ^[5] - 785:19, 903:14, 906:13, 953:10, 999:16</p> <p>K</p> <p>keep ^[13] - 786:6, 795:1, 850:25, 851:1, 927:6, 927:21, 930:21, 948:3, 948:4, 948:5, 952:11, 996:13, 999:13</p> <p>kept ^[5] - 835:21, 960:17, 975:9, 975:10, 987:17</p> <p>Kevin ^[5] - 876:4, 876:15, 876:19, 877:9, 881:22</p> <p>kid ^[4] - 856:13, 936:19, 975:15, 998:2</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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<p>kids [9] - 815:1, 824:7, 851:1, 856:14, 936:17, 997:25, 998:1</p> <p>killed [8] - 833:15, 833:16, 833:17, 837:12, 837:14, 838:8, 838:14, 838:21</p> <p>killing [4] - 865:14, 865:16, 865:18, 865:20</p> <p>kilograms [1] - 809:3</p> <p>kind [4] - 827:19, 829:14, 850:2, 850:17</p> <p>Kingsborough [4] - 970:24, 971:2, 971:11, 972:3</p> <p>Kion [41] - 816:9, 816:20, 816:22, 816:23, 817:8, 817:9, 821:11, 821:12, 821:16, 821:21, 823:7, 825:15, 826:6, 828:9, 828:11, 828:14, 828:15, 829:12, 829:18, 830:8, 830:12, 830:15, 834:8, 859:16, 859:17, 859:20, 870:4, 909:3, 909:21, 937:1, 937:2, 937:4, 938:3, 938:5, 938:9, 987:2, 987:5, 987:7, 987:8, 994:3, 994:10</p> <p>knowing [1] - 877:16</p> <p>knowledge [15] - 811:22, 811:23, 812:3, 812:13, 812:22, 812:25, 819:21, 848:25, 859:2, 859:3, 862:9, 871:10, 873:13, 939:20, 989:7</p> <p>knows [1] - 824:24</p> <p>KR [1] - 787:5</p> <p>Kyle [7] - 937:8, 937:9, 937:16, 937:17, 937:21, 938:3, 938:11</p> <p>Kyle's [1] - 937:1</p>	<p>lawyers [1] - 999:20</p> <p>laying [1] - 901:4</p> <p>leading [2] - 790:2, 835:25</p> <p>lean [1] - 786:10</p> <p>learn [6] - 808:3, 808:10, 843:2, 964:9, 964:11, 990:18</p> <p>learned [9] - 845:11, 846:16, 860:16, 935:18, 990:8, 990:17, 990:21, 995:13</p> <p>least [4] - 847:6, 848:4, 855:14, 902:10</p> <p>leave [12] - 822:6, 822:7, 822:9, 822:17, 825:8, 825:9, 859:21, 868:10, 870:4, 901:22, 901:25</p> <p>leaving [2] - 831:7, 831:8</p> <p>Lefferts [1] - 935:5</p> <p>left [37] - 791:23, 796:1, 796:2, 798:5, 798:7, 799:4, 821:15, 821:20, 822:1, 831:7, 831:9, 856:19, 856:22, 868:9, 868:13, 877:21, 877:22, 877:23, 878:3, 878:12, 878:14, 878:16, 878:18, 878:20, 878:25, 880:25, 885:20, 885:21, 890:20, 891:13, 891:17, 893:8, 919:11</p> <p>left-hand [1] - 822:1</p> <p>leg [4] - 831:10, 885:19, 886:16, 886:25</p> <p>Legister [1] - 899:24</p> <p>legitimate [1] - 1000:10</p> <p>less [9] - 805:19, 805:21, 805:22, 864:24, 880:10, 880:17, 885:2, 885:9, 952:15</p> <p>lesson [1] - 990:8</p> <p>letter [19] - 812:1, 812:2, 812:3, 812:5, 812:8, 812:12, 812:18, 812:21, 812:24, 813:2, 849:2, 849:6, 849:8, 879:12, 879:13, 892:16, 904:23, 1002:2</p> <p>level [1] - 992:5</p> <p>Lexus [4] - 917:1, 917:2, 917:4</p> <p>license [9] - 918:8, 918:9, 918:13, 930:3, 972:15, 972:18, 972:23, 972:25, 973:4</p> <p>licensed [1] - 874:12</p> <p>lie [3] - 812:20, 852:22, 853:7</p> <p>lied [1] - 853:3</p> <p>life [24] - 811:1, 812:14, 812:15, 812:16, 835:23, 847:2, 847:12, 847:14, 847:20, 848:1, 849:1, 851:9, 851:12, 852:8, 852:16, 852:19, 853:15, 875:3, 875:6, 905:2, 945:15, 946:19, 990:5</p> <p>life-style [1] - 835:23</p> <p>likely [1] - 880:10</p> <p>Lincoln [2] - 874:7, 934:9</p> <p>Lindsey [21] - 804:7, 804:9, 818:16, 819:10, 819:19, 819:25, 820:16, 820:18, 942:1, 942:2, 942:4, 942:6, 943:9, 943:13, 943:16, 943:20, 943:22, 944:8, 995:3</p> <p>Lindsey's [1] - 860:19</p> <p>line [5] - 882:3, 903:11, 926:22, 996:17, 998:12</p> <p>liquor [2] - 864:11, 864:12</p> <p>listed [2] - 881:25, 882:11</p>	<p>listen [2] - 792:8, 984:10</p> <p>live [39] - 839:13, 841:13, 858:8, 858:12, 858:17, 907:6, 907:8, 907:10, 907:16, 908:2, 908:8, 910:23, 913:12, 913:16, 914:1, 914:20, 914:22, 915:17, 916:21, 919:3, 919:14, 919:25, 924:10, 924:14, 933:18, 933:20, 934:3, 934:25, 935:3, 935:6, 935:8, 936:13, 936:15, 942:6, 943:6, 944:4, 945:4, 945:8</p> <p>lived [22] - 839:15, 839:17, 841:15, 858:15, 858:19, 907:25, 908:1, 908:7, 910:12, 913:18, 919:1, 924:8, 924:15, 934:5, 935:9, 943:11, 944:3, 944:5, 945:22, 945:23, 994:15, 995:22</p> <p>lives [7] - 858:10, 858:11, 910:13, 934:20, 944:6, 945:9, 960:25</p> <p>living [8] - 786:14, 872:24, 887:23, 915:20, 921:8, 921:10, 945:14, 965:7</p> <p>load [1] - 989:20</p> <p>loaded [4] - 988:14, 989:22, 989:24, 997:19</p> <p>local [1] - 899:24</p> <p>locate [2] - 890:1, 930:19</p> <p>located [3] - 892:14, 894:12, 896:25</p> <p>location [12] - 837:15, 841:16, 867:6, 896:2, 896:5, 896:8, 896:16, 897:7, 897:17, 897:25, 901:9, 982:16</p> <p>locations [1] - 892:7</p> <p>locked [3] - 836:7, 836:9, 836:10</p> <p>look [36] - 820:13, 820:14, 838:20, 876:22, 876:23, 886:19, 901:11, 903:23, 909:5, 917:9, 922:5, 925:15, 935:24, 936:22, 937:11, 938:24, 939:10, 939:24, 941:5, 941:19, 941:23, 943:24, 944:24, 945:24, 949:11, 954:10, 962:2, 967:2, 967:20, 969:16, 974:7, 997:12, 1000:12, 1000:24, 1001:9, 1001:13</p> <p>looked [11] - 817:23, 868:24, 870:16, 890:25, 898:4, 923:21, 924:2, 954:13, 975:9, 975:11, 992:3</p> <p>looking [20] - 792:25, 808:4, 808:7, 808:8, 808:10, 808:15, 810:6, 817:22, 817:24, 818:2, 846:18, 846:21, 847:12, 847:14, 848:25, 851:11, 851:12, 893:25, 927:16, 996:9</p> <p>lookout [2] - 820:16</p> <p>looks [4] - 907:20, 937:21, 955:14, 992:3</p> <p>LORETTA [1] - 784:15</p> <p>lose [1] - 875:3</p> <p>loss [1] - 875:6</p> <p>lost [2] - 814:4, 841:1</p> <p>loud [1] - 951:24</p> <p>louder [5] - 792:9, 792:16, 933:2, 955:1, 956:22</p> <p>Lower [1] - 872:2</p> <p>lower [2] - 813:1, 878:19</p> <p>lunch [5] - 871:23, 902:23, 903:11, 905:7, 906:4</p> <p>LYNCH [1] - 784:15</p>
L		
<p>lab [2] - 899:22, 900:16</p> <p>label [2] - 879:13, 899:19</p> <p>labeled [1] - 879:12</p> <p>labels [1] - 1001:3</p> <p>ladies [3] - 884:22, 899:9, 975:3</p> <p>Ladies [1] - 947:17</p> <p>lady [3] - 829:7, 829:8, 919:12</p> <p>lane [2] - 890:18, 891:11</p> <p>language [2] - 796:14, 796:16</p> <p>large [3] - 805:14, 815:20, 882:20</p> <p>larger [1] - 838:17</p> <p>largest [1] - 879:5</p> <p>Lashley [2] - 855:1, 865:8</p> <p>last [15] - 797:7, 807:10, 809:12, 809:17, 831:19, 844:14, 845:24, 872:21, 879:13, 881:19, 890:24, 931:11, 968:17, 974:10, 974:11</p> <p>lasts [1] - 998:25</p> <p>late [7] - 857:16, 925:2, 962:24, 963:1, 963:3, 963:4</p> <p>latent [5] - 888:19, 899:4, 900:14, 900:17, 900:18</p> <p>laundromat [6] - 793:9, 804:19, 804:21, 804:23, 804:25, 814:18</p> <p>law [3] - 873:13, 999:3, 1001:14</p> <p>lawyer [8] - 796:11, 847:18, 854:25, 855:1, 865:4, 865:6, 999:23, 1000:7</p>		

M		
<p>ma'am ^[1] - 920:10</p> <p>Mack ^[1] - 817:2</p> <p>mad ^[1] - 829:16</p> <p>major ^[1] - 879:19</p> <p>man ^[2] - 792:8, 838:13</p> <p>mandatory ^[1] - 905:2</p> <p>Manhattan ^[1] - 872:2</p> <p>manner ^[6] - 873:14, 874:23, 875:4, 875:5, 875:10, 881:23</p> <p>margin ^[1] - 880:2</p> <p>marijuana ^[249] - 788:19, 788:20, 788:24, 789:1, 789:12, 789:22, 790:6, 790:10, 790:16, 794:2, 794:4, 794:20, 795:17, 795:20, 795:25, 800:1, 800:6, 800:11, 800:15, 800:18, 800:23, 801:3, 801:6, 801:11, 801:14, 801:16, 801:21, 801:24, 802:1, 802:6, 802:9, 802:14, 802:16, 802:18, 803:3, 804:1, 804:5, 804:7, 804:11, 804:18, 805:5, 805:8, 805:13, 807:17, 807:18, 808:23, 809:1, 809:2, 809:13, 809:17, 809:23, 810:3, 813:6, 813:12, 813:22, 814:2, 814:11, 814:12, 814:25, 815:18, 817:18, 820:8, 820:10, 820:12, 821:5, 821:11, 821:14, 821:19, 821:22, 822:3, 823:15, 825:10, 827:8, 827:14, 829:4, 829:25, 831:12, 832:1, 832:20, 833:8, 837:6, 840:11, 841:2, 841:4, 841:13, 849:23, 850:3, 863:19, 863:23, 866:5, 866:8, 866:9, 866:17, 868:19, 881:16, 881:18, 883:13, 883:15, 883:17, 883:18, 883:19, 883:21, 883:25, 884:2, 884:4, 884:6, 884:8, 884:10, 884:12, 894:19, 908:20, 908:25, 909:2, 909:9, 909:11, 909:13, 909:18, 909:22, 910:1, 910:3, 910:7, 938:9, 938:11, 938:12, 938:20, 939:6, 939:19, 940:17, 940:18, 941:13, 944:9, 944:11, 944:12, 944:13, 944:15, 944:18, 944:20, 946:7, 946:8, 946:10, 946:12, 946:13, 946:15, 946:18, 946:25, 947:2, 947:5, 947:7, 947:8, 947:9, 947:14, 947:15, 947:18, 947:21, 947:22, 947:23, 948:1, 948:3, 948:12, 950:8, 950:14, 950:16, 950:24, 950:25, 951:1, 951:3, 951:5, 951:17, 951:20, 951:22, 952:18, 953:14, 953:17, 954:16, 954:20, 955:21, 956:4, 957:6, 957:12, 957:17, 957:20, 958:4, 959:17, 959:21, 960:5, 960:17, 960:18, 961:7, 961:8, 961:9, 961:11, 961:13, 975:19, 980:2, 980:5, 980:10, 980:15, 980:17, 980:23, 981:1, 981:4, 981:7, 981:8, 981:10, 981:13, 981:16, 982:23, 982:25, 983:2, 983:5, 983:16, 983:23, 984:14, 984:15, 984:16, 984:17, 984:24, 985:2, 985:21, 986:4, 986:20, 987:2, 987:5, 987:8, 987:11, 987:15, 987:20, 991:17, 992:1, 993:8, 993:13, 993:17, 993:20, 993:22, 993:24, 994:4,</p>	<p>995:5, 995:12, 995:15, 995:17, 995:25, 996:1, 996:3, 996:5, 996:7, 996:8, 996:9, 996:11</p> <p>mark ^[3] - 785:6, 882:4, 884:24</p> <p>marked ^[31] - 785:11, 785:15, 811:11, 811:19, 863:3, 876:11, 877:4, 889:18, 892:23, 893:4, 893:16, 917:25, 922:6, 924:1, 927:10, 929:11, 931:17, 937:11, 938:2, 944:25, 949:12, 950:2, 965:9, 967:16, 967:20, 970:20, 972:9, 972:13, 973:6, 973:22, 974:13</p> <p>marker ^[2] - 892:5, 892:15</p> <p>markers ^[2] - 892:6, 892:7</p> <p>marriage ^[3] - 919:16, 920:7, 920:9</p> <p>married ^[3] - 919:17, 919:18, 919:21</p> <p>Martense ^[1] - 918:23</p> <p>matter ^[1] - 827:5</p> <p>maximum ^[1] - 810:24</p> <p>McQuilkin ^[15] - 952:15, 953:15, 953:17, 954:9, 954:18, 954:21, 956:8, 958:1, 958:4, 960:6, 960:14, 960:16, 960:22, 961:13, 985:5</p> <p>MD ^[1] - 998:3</p> <p>mean ^[38] - 792:21, 794:22, 799:6, 804:19, 807:16, 814:10, 815:14, 818:4, 819:13, 826:10, 827:3, 828:3, 828:7, 832:10, 832:15, 834:24, 835:22, 836:9, 839:5, 844:3, 848:11, 864:7, 864:23, 865:18, 875:4, 877:14, 886:3, 927:5, 931:20, 944:12, 948:6, 949:4, 952:6, 956:3, 957:21, 960:1, 960:23, 992:12</p> <p>meaning ^[6] - 879:17, 879:25, 880:1, 880:9, 884:23, 885:5</p> <p>means ^[3] - 835:24, 844:9, 899:10</p> <p>meant ^[1] - 889:21</p> <p>meantime ^[1] - 785:17</p> <p>mechanical ^[1] - 784:24</p> <p>medical ^[9] - 874:1, 874:3, 877:18, 897:3, 897:11, 914:15, 914:16, 915:8, 915:10</p> <p>Medical ^[3] - 873:2, 873:5, 873:15</p> <p>medicine ^[2] - 873:11, 874:12</p> <p>meet ^[6] - 802:3, 806:1, 815:2, 856:4, 906:6, 983:14</p> <p>meeting ^[2] - 814:7, 906:8</p> <p>member ^[2] - 862:1, 888:16</p> <p>members ^[4] - 902:22, 987:25, 988:19, 998:14</p> <p>mementos ^[1] - 927:6</p> <p>mention ^[1] - 954:15</p> <p>mentioned ^[20] - 836:9, 842:21, 842:23, 847:20, 847:23, 847:25, 848:8, 848:9, 860:12, 860:14, 861:19, 880:4, 882:15, 883:12, 884:19, 885:9, 885:18, 897:12, 906:5</p> <p>mess ^[2] - 859:11, 859:13</p> <p>messing ^[3] - 828:5, 829:20, 859:14</p> <p>met ^[1] - 815:4</p> <p>metal ^[3] - 828:21, 997:22, 998:7</p> <p>meter ^[3] - 891:2, 891:6, 891:7</p> <p>Metropolitan ^[1] - 874:6</p>	<p>Miami ^[1] - 911:22</p> <p>microphone ^[5] - 786:7, 932:25, 933:16, 955:7</p> <p>mid-30's ^[2] - 940:5, 940:6</p> <p>middle ^[2] - 804:17, 928:17</p> <p>midnight ^[1] - 798:14</p> <p>might ^[6] - 848:7, 858:19, 903:5, 954:17, 971:15, 996:9</p> <p>million ^[2] - 984:8, 984:9</p> <p>mind ^[1] - 975:10</p> <p>mine ^[1] - 814:3</p> <p>minimum ^[1] - 811:2</p> <p>minute ^[2] - 854:10, 854:14</p> <p>minutes ^[11] - 835:17, 861:9, 871:22, 952:20, 962:17, 962:18, 988:3, 988:10, 996:18, 1003:13</p> <p>missing ^[1] - 1000:24</p> <p>mistake ^[3] - 810:10, 810:11, 853:3</p> <p>Mitch ^[2] - 796:10, 894:25</p> <p>MITCHELL ^[1] - 784:19</p> <p>models ^[1] - 902:2</p> <p>mom ^[7] - 846:12, 919:4, 919:8, 920:11, 924:16, 935:7</p> <p>moment ^[5] - 830:1, 871:3, 871:17, 904:22, 915:1</p> <p>money ^[24] - 803:3, 805:12, 806:10, 807:14, 814:5, 815:12, 822:24, 828:7, 829:13, 829:20, 831:22, 850:20, 851:2, 859:14, 914:18, 916:11, 951:22, 957:19, 957:25, 958:2, 975:19, 991:17</p> <p>Montague ^[1] - 872:4</p> <p>month ^[12] - 797:10, 797:12, 797:23, 808:9, 831:18, 836:8, 836:10, 857:4, 911:19, 912:1, 912:9, 985:9</p> <p>months ^[8] - 809:11, 810:3, 810:5, 813:19, 846:22, 850:5, 858:18, 997:18</p> <p>morning ^[26] - 785:20, 785:21, 786:8, 786:9, 822:16, 828:6, 829:4, 834:20, 838:5, 855:21, 855:23, 856:1, 856:7, 856:16, 857:13, 857:14, 863:10, 867:16, 889:1, 969:19, 993:11, 996:15, 998:2, 998:12, 1002:24, 1003:10</p> <p>mornings ^[2] - 832:17, 856:17</p> <p>most ^[5] - 820:18, 856:21, 877:20, 880:10, 946:21</p> <p>mostly ^[1] - 816:22</p> <p>mother ^[10] - 808:11, 808:13, 904:13, 920:10, 920:12, 920:13, 933:21, 934:1, 934:24, 945:10</p> <p>motion ^[1] - 903:16</p> <p>motorcycle ^[1] - 862:10</p> <p>mouth ^[2] - 860:13, 984:11</p> <p>move ^[8] - 903:18, 920:21, 933:16, 955:7, 968:21, 969:9, 976:14</p> <p>moved ^[2] - 920:17, 924:16</p> <p>moving ^[1] - 835:21</p> <p>MR ^[212] - 785:5, 785:9, 785:14, 785:24, 786:13, 787:13, 790:2, 790:20, 794:8, 796:4, 796:7, 796:9, 799:17, 799:18, 799:20, 799:24, 806:14, 806:16, 806:21, 807:5, 811:8, 811:16,</p>

<p>819:2, 833:22, 834:5, 837:1, 839:9, 839:12, 842:2, 861:7, 861:15, 861:17, 861:18, 869:8, 869:10, 869:12, 871:3, 871:11, 871:13, 871:17, 872:8, 872:23, 874:19, 874:21, 876:2, 876:8, 876:20, 876:22, 877:1, 877:24, 882:21, 882:23, 882:25, 887:5, 887:8, 887:12, 887:22, 892:21, 893:11, 894:20, 894:22, 894:24, 898:14, 898:15, 901:19, 901:21, 902:14, 902:16, 902:21, 903:8, 903:18, 903:24, 904:7, 904:12, 904:21, 906:4, 906:10, 906:11, 906:16, 906:25, 911:12, 911:14, 911:16, 912:12, 912:14, 912:18, 913:2, 916:17, 916:20, 917:17, 917:20, 917:22, 923:1, 923:18, 923:20, 923:23, 924:4, 928:3, 928:5, 928:8, 928:13, 929:2, 929:13, 930:24, 931:4, 931:7, 931:10, 931:15, 932:6, 932:10, 932:14, 932:22, 936:1, 937:23, 937:25, 943:2, 947:13, 949:25, 953:4, 953:9, 953:13, 965:15, 965:18, 965:20, 966:7, 966:10, 966:12, 967:1, 967:12, 967:14, 968:4, 968:8, 968:11, 968:15, 968:20, 968:25, 969:2, 969:5, 969:8, 969:11, 969:15, 969:21, 969:25, 970:2, 970:15, 970:18, 971:9, 971:13, 971:20, 971:22, 971:25, 972:3, 972:6, 972:7, 972:11, 972:17, 972:20, 972:24, 973:3, 973:8, 973:15, 973:18, 973:20, 973:24, 974:3, 974:10, 974:12, 974:20, 974:24, 978:14, 978:22, 978:25, 979:4, 980:7, 982:2, 982:12, 985:14, 988:23, 990:10, 992:15, 996:17, 996:20, 996:23, 996:24, 998:13, 999:22, 1000:5, 1001:6, 1001:8, 1001:12, 1001:16, 1001:19, 1001:21, 1001:24, 1002:2, 1002:4, 1002:8, 1002:10, 1002:12, 1002:14, 1002:19, 1002:22, 1003:1, 1003:4, 1003:7, 1003:13, 1003:17, 1005:12, 1005:14, 1005:17, 1005:19, 1005:21</p> <p>mumble ^[1] - 792:10</p> <p>murder ^[14] - 849:18, 849:22, 866:9, 866:16, 866:17, 866:24, 867:4, 867:5, 867:8, 867:11, 867:23, 868:2, 889:2, 964:9</p> <p>muscle ^[1] - 885:13</p> <p>muscles ^[1] - 878:25</p> <p>muzzle ^[6] - 880:8, 880:9, 885:1, 885:4, 886:3, 887:3</p>	<p>887:19, 894:25, 895:21, 906:18, 910:10, 912:20, 913:6, 913:7, 913:8, 916:15, 921:4, 921:5, 922:4, 932:19, 933:4, 933:6, 934:11, 934:12, 950:20, 979:10</p> <p>named ^[10] - 814:3, 814:4, 818:16, 832:11, 858:5, 861:3, 876:3, 908:6, 908:8, 935:15</p> <p>names ^[6] - 789:3, 789:5, 816:19, 816:22, 818:25, 979:8</p> <p>Naomi ^[2] - 920:25, 921:1</p> <p>narcotics ^[3] - 809:1, 843:23, 844:7</p> <p>natural ^[1] - 875:6</p> <p>nature ^[2] - 961:5, 1004:1</p> <p>near ^[3] - 848:18, 984:9, 998:19</p> <p>necessarily ^[1] - 812:18</p> <p>neck ^[2] - 879:1, 879:6</p> <p>need ^[8] - 918:10, 971:10, 971:16, 971:24, 978:13, 987:7, 995:18, 1003:11</p> <p>needed ^[1] - 825:20</p> <p>neighbor's ^[1] - 908:17</p> <p>neighborhood ^[23] - 799:5, 799:7, 819:12, 821:4, 839:15, 841:14, 856:9, 862:1, 863:7, 863:12, 871:22, 872:6, 907:8, 913:14, 913:16, 918:20, 934:3, 934:19, 936:13, 936:16, 976:3, 990:25, 993:4</p> <p>neighbors ^[1] - 936:17</p> <p>nephew ^[3] - 807:24, 808:1, 908:8</p> <p>nervous ^[3] - 786:20, 786:21, 810:7</p> <p>never ^[30] - 800:17, 803:18, 806:12, 817:17, 844:6, 844:9, 844:17, 846:25, 847:8, 851:11, 852:21, 853:10, 854:10, 854:14, 866:11, 866:13, 869:6, 910:6, 946:20, 948:18, 982:25, 985:2, 988:25, 989:2, 989:14, 991:6, 991:8, 993:8, 994:21, 994:23</p> <p>NEW ^[1] - 784:1</p> <p>new ^[3] - 864:14, 917:4, 917:5</p> <p>New ^[17] - 784:7, 784:18, 784:20, 784:22, 825:25, 873:3, 873:5, 873:15, 874:7, 874:12, 888:3, 888:4, 907:5, 907:6, 916:7, 916:9, 972:24</p> <p>next ^[47] - 785:17, 785:23, 792:1, 792:2, 793:5, 793:6, 793:13, 794:15, 805:2, 806:20, 806:24, 824:11, 826:23, 828:6, 836:22, 866:19, 866:20, 871:16, 871:20, 875:11, 876:16, 890:2, 891:2, 891:5, 891:7, 892:14, 901:4, 905:8, 912:17, 922:11, 932:13, 934:24, 936:17, 942:10, 944:3, 944:4, 944:5, 944:6, 952:24, 954:18, 966:13, 977:11, 977:12, 981:17, 984:18, 999:7, 1002:25</p> <p>nice ^[4] - 786:24, 899:11, 903:11, 903:12</p> <p>nicest ^[1] - 872:2</p> <p>nickel ^[5] - 947:19, 984:19, 984:21, 985:2, 992:18</p> <p>nickels ^[2] - 909:18, 909:19</p> <p>nickles ^[2] - 838:9, 838:15</p> <p>nickname ^[1] - 940:9</p>	<p>night ^[8] - 889:2, 964:21, 964:23, 964:25, 965:22, 965:25, 966:2, 966:4</p> <p>night's ^[1] - 998:20</p> <p>nights ^[1] - 857:16</p> <p>nighttime ^[1] - 829:15</p> <p>nine ^[6] - 883:10, 914:17, 916:10, 934:10, 934:13, 934:14</p> <p>nineteen ^[1] - 915:14</p> <p>ninety ^[2] - 916:12, 916:14</p> <p>nip ^[4] - 864:4, 864:5, 864:7, 864:15</p> <p>nips ^[3] - 864:9, 864:10, 864:14</p> <p>nobody ^[1] - 897:18</p> <p>nobody's ^[1] - 903:9</p> <p>nonetheless ^[1] - 1000:20</p> <p>noon ^[2] - 798:13, 798:14</p> <p>normally ^[3] - 955:3, 955:5, 999:25</p> <p>north ^[7] - 889:12, 890:15, 890:19, 891:12</p> <p>northbound ^[2] - 890:15, 892:1</p> <p>Nostrand ^[5] - 955:17, 955:19, 955:20, 955:22, 963:10</p> <p>notebook ^[10] - 927:18, 927:20, 927:22, 927:24, 961:25, 962:1, 964:2, 964:3, 990:12</p> <p>notebooks ^[11] - 927:4, 927:5, 927:6, 927:21, 930:16, 930:19, 930:21, 931:4, 931:19, 932:3, 964:16</p> <p>noted ^[2] - 785:1, 885:24</p> <p>notes ^[8] - 878:5, 878:6, 896:11, 896:13, 927:13, 927:14, 927:15, 928:1</p> <p>nothing ^[19] - 830:8, 839:9, 852:22, 869:8, 871:11, 871:13, 882:21, 887:6, 894:20, 902:14, 902:16, 912:12, 926:18, 926:19, 926:21, 929:2, 978:22, 993:25, 999:9</p> <p>notice ^[3] - 863:25, 944:11, 1003:2</p> <p>notification ^[1] - 889:8</p> <p>November ^[1] - 798:5</p> <p>nowhere ^[1] - 984:9</p> <p>number ^[38] - 800:7, 800:8, 800:10, 872:1, 892:5, 892:14, 892:15, 893:2, 893:8, 893:21, 898:18, 898:20, 898:21, 899:3, 900:5, 900:11, 900:21, 900:24, 901:2, 901:5, 901:6, 907:14, 907:25, 913:19, 919:1, 924:22, 924:23, 925:1, 926:12, 949:5, 953:15, 956:25, 957:2, 958:10, 973:1, 978:5, 983:24</p> <p>numbered ^[2] - 900:1</p> <p>numbers ^[2] - 892:2, 921:23</p> <p>numerous ^[2] - 897:13, 990:9</p>
<p>N</p> <p>N.Y. ^[1] - 784:20</p> <p>nail ^[2] - 814:22, 982:19</p> <p>name ^[47] - 786:1, 787:3, 787:19, 789:10, 789:18, 791:7, 791:11, 791:15, 791:21, 796:10, 803:13, 806:22, 832:6, 842:21, 842:23, 842:25, 845:17, 860:12, 860:14, 860:25, 861:20, 862:4, 872:17, 872:20, 872:21, 879:13, 883:3,</p>		<p>O</p> <p>o'clock ^[16] - 784:9, 815:11, 831:3, 832:18, 838:2, 838:4, 855:24, 856:20, 857:9, 857:13, 857:17, 864:20, 864:21, 866:18, 1004:7</p> <p>O'SULLIVAN ^[1] - 1005:15</p> <p>O'Sullivan ^[2] - 887:13, 887:14</p> <p>object ^[8] - 968:6, 968:8, 969:10,</p>

<p>999:22, 1000:5, 1001:3, 1001:11, 1001:17</p> <p>objected [2] - 1001:21, 1001:22</p> <p>objection [35] - 790:2, 794:8, 799:17, 799:24, 811:18, 833:22, 834:5, 834:7, 842:2, 874:21, 877:1, 893:13, 917:20, 917:24, 923:22, 923:23, 929:3, 937:25, 949:24, 949:25, 965:18, 967:14, 968:18, 969:13, 969:15, 970:16, 970:18, 972:7, 973:8, 973:16, 980:7, 992:15, 1001:23, 1002:3, 1002:6</p> <p>objections [1] - 931:6</p> <p>obscured [1] - 889:15</p> <p>observations [2] - 838:1, 895:23</p> <p>observe [1] - 890:1</p> <p>observed [1] - 992:10</p> <p>obviously [5] - 865:20, 903:10, 903:22, 904:19, 998:14</p> <p>occasion [7] - 805:5, 828:25, 866:14, 871:9, 901:13, 954:3, 961:14</p> <p>occasionally [5] - 908:9, 911:3, 911:4, 936:20, 983:20</p> <p>occasions [2] - 828:17, 953:15</p> <p>occurred [2] - 849:22, 866:16</p> <p>occurrence [1] - 896:14</p> <p>October [4] - 955:9, 980:5, 980:10, 981:5</p> <p>odd [1] - 825:19</p> <p>OF [3] - 784:1, 784:4, 784:11</p> <p>offers [4] - 811:16, 874:19, 876:20, 893:11</p> <p>Office [1] - 873:2</p> <p>Officer [3] - 895:22, 899:24, 975:8</p> <p>officer [4] - 844:4, 890:10, 899:23, 980:12</p> <p>officers [2] - 889:19, 976:3</p> <p>often [21] - 788:16, 789:22, 802:20, 804:18, 819:24, 823:10, 828:14, 836:1, 836:3, 856:25, 857:2, 857:17, 864:15, 864:18, 897:3, 909:11, 936:18, 943:5, 944:15, 944:16, 947:5</p> <p>old [20] - 807:6, 818:12, 839:21, 867:5, 876:6, 876:7, 907:2, 913:10, 913:24, 915:13, 915:15, 921:6, 933:8, 937:2, 937:9, 937:17, 938:5, 940:22, 941:14, 942:2</p> <p>older [9] - 830:15, 830:21, 937:1, 937:6, 940:5, 994:5, 995:7, 995:9</p> <p>once [26] - 815:17, 822:12, 836:4, 836:5, 836:8, 844:20, 844:22, 845:21, 850:17, 860:25, 863:24, 864:16, 864:18, 864:20, 864:23, 864:25, 868:1, 884:10, 918:12, 930:24, 947:7, 947:9, 968:16, 998:16, 1003:11</p> <p>one [109] - 789:7, 789:9, 792:7, 792:17, 792:22, 795:11, 795:16, 802:16, 804:17, 805:2, 805:5, 820:13, 820:14, 821:13, 822:16, 825:19, 825:20, 826:22, 828:18, 829:7, 829:19, 831:3, 831:23, 832:24, 840:1, 841:9, 841:16, 841:19, 846:8, 846:10, 849:24, 850:1,</p>	<p>850:11, 854:10, 854:14, 858:13, 859:1, 862:24, 864:8, 864:17, 865:10, 869:2, 871:3, 871:25, 873:8, 876:12, 878:12, 878:14, 882:5, 882:7, 882:16, 882:17, 887:2, 887:4, 887:12, 891:19, 892:2, 898:13, 898:18, 898:20, 898:21, 899:3, 900:11, 900:21, 901:6, 904:21, 904:22, 909:9, 910:6, 914:2, 914:5, 914:10, 924:4, 926:22, 931:11, 932:5, 946:21, 954:19, 956:21, 956:23, 959:3, 960:19, 968:8, 968:17, 970:5, 974:10, 974:11, 976:10, 976:11, 976:18, 976:19, 977:3, 977:4, 977:24, 980:18, 983:14, 984:12, 986:4, 986:8, 986:15, 986:20, 987:6, 994:25, 996:12, 996:17, 997:21</p> <p>ones [4] - 795:7, 932:4, 932:5, 1001:24</p> <p>open [3] - 785:1, 861:12, 953:1</p> <p>Open [1] - 906:2</p> <p>operational [1] - 989:7</p> <p>opportunity [1] - 928:10</p> <p>opposed [1] - 879:22</p> <p>oral [1] - 1004:3</p> <p>order [1] - 817:24</p> <p>ounce [25] - 790:7, 790:8, 800:15, 805:17, 947:10, 947:19, 947:20, 948:14, 948:20, 951:23, 951:25, 952:2, 952:3, 952:4, 952:5, 952:8, 956:4, 956:6, 959:3, 959:4, 961:15, 984:21</p> <p>ounces [6] - 946:20, 946:22, 946:23, 948:14</p> <p>outside [14] - 820:2, 822:16, 823:23, 823:25, 824:15, 824:18, 824:19, 824:22, 825:7, 826:2, 828:20, 832:17, 834:19, 981:8</p> <p>outweighed [1] - 827:17</p> <p>oval [1] - 880:2</p> <p>overall [5] - 889:12, 890:15, 890:18, 891:11, 893:5</p> <p>overnight [2] - 888:25, 1001:9</p> <p>overruled [5] - 790:5, 833:24, 834:7, 842:3, 980:9</p> <p>overstayed [1] - 831:3</p> <p>owed [1] - 829:13</p> <p>own [8] - 813:24, 914:1, 914:3, 914:6, 916:23, 916:25, 943:18, 989:6</p> <p>owned [2] - 908:4, 914:4</p> <p>Ozone [3] - 921:22, 930:2, 934:5</p>	<p>952:24, 966:13, 981:17, 996:22, 1000:12, 1002:25</p> <p>pages [1] - 929:18</p> <p>paid [7] - 816:2, 816:3, 818:9, 827:4, 851:2, 914:18, 999:11</p> <p>pants [5] - 879:24, 885:24, 886:14, 886:15, 887:2</p> <p>paper [8] - 898:21, 899:19, 900:13, 900:14, 901:7, 925:11, 967:3, 967:4</p> <p>papers [4] - 922:7, 967:17, 971:16, 972:21</p> <p>paperwork [1] - 900:20</p> <p>pardon [2] - 861:22, 916:13</p> <p>Park [5] - 930:2, 934:6, 949:1, 949:2, 949:15</p> <p>parking [4] - 826:22, 891:2, 891:5, 891:7</p> <p>part [11] - 842:19, 854:19, 878:13, 879:24, 883:21, 923:7, 939:8, 988:13, 994:14, 994:15, 998:22</p> <p>partially [1] - 889:15</p> <p>particular [11] - 821:18, 837:15, 837:25, 839:2, 885:23, 888:10, 896:2, 899:14, 900:7, 927:15, 927:22</p> <p>particularly [1] - 918:22</p> <p>partition [1] - 835:10</p> <p>partner [2] - 895:19, 895:21</p> <p>pass [1] - 945:12</p> <p>passed [3] - 817:6, 862:10, 972:25</p> <p>past [20] - 790:12, 811:21, 812:4, 812:6, 812:10, 830:13, 834:20, 834:22, 835:18, 852:17, 865:25, 866:2, 866:3, 867:20, 868:25, 945:11, 946:15, 947:25, 983:11</p> <p>pathologist [1] - 872:25</p> <p>pathology [8] - 873:9, 873:10, 873:11, 874:4, 874:5, 874:8, 874:11, 874:20</p> <p>Pathology [2] - 873:9, 874:8</p> <p>Pause [7] - 785:18, 863:11, 871:4, 918:1, 922:9, 923:9, 971:19</p> <p>pay [11] - 806:10, 818:6, 818:8, 818:10, 818:14, 819:11, 828:7, 975:10, 978:7, 978:9, 998:1</p> <p>people [98] - 788:13, 789:1, 789:3, 790:23, 794:6, 794:10, 794:16, 794:19, 795:7, 801:14, 801:16, 802:9, 802:15, 803:11, 804:1, 804:3, 811:24, 813:25, 814:1, 816:6, 816:8, 816:10, 817:14, 817:22, 817:24, 818:6, 818:10, 818:12, 818:14, 818:17, 819:14, 819:16, 821:3, 821:19, 822:2, 822:8, 823:5, 823:23, 823:25, 824:3, 824:13, 824:15, 824:21, 825:5, 825:13, 826:5, 826:25, 827:1, 827:2, 827:3, 827:9, 827:10, 829:21, 830:13, 831:12, 833:1, 833:25, 834:9, 834:10, 836:19, 839:5, 843:11, 859:6, 860:20, 860:21, 865:20, 868:18, 869:16, 908:2, 909:9, 909:15, 910:4, 910:7, 933:22, 936:13, 936:15, 944:4, 945:20, 947:2, 947:5, 949:5, 950:17, 951:24, 979:20, 979:25, 981:12, 983:9,</p>
P		
<p>p.m [5] - 889:1, 889:9, 896:9, 896:15, 897:25</p> <p>pace [1] - 975:11</p> <p>package [4] - 816:3, 888:18, 890:9, 900:2</p> <p>packaged [2] - 980:24, 981:1</p> <p>packages [3] - 826:9, 826:19, 827:2</p> <p>packaging [1] - 899:22</p> <p>page [18] - 806:24, 836:22, 875:11, 877:8, 905:8, 922:11, 924:4, 928:14, 928:17, 928:22, 929:20, 942:10,</p>		

<p>991:11, 991:12, 992:12, 993:3, 994:11, 995:1</p> <p>people's [4] - 827:14, 828:13, 829:6, 831:16</p> <p>perforated [1] - 882:19</p> <p>perforating [1] - 879:17</p> <p>perforation [2] - 879:24, 880:24</p> <p>perform [2] - 876:3, 877:10</p> <p>performed [5] - 873:23, 876:15, 877:9, 881:12, 881:21</p> <p>performing [1] - 873:22</p> <p>perhaps [1] - 785:22</p> <p>period [16] - 795:20, 796:19, 835:25, 836:5, 836:10, 836:13, 854:5, 863:8, 884:13, 908:20, 911:2, 920:2, 925:6, 947:15, 971:21</p> <p>permission [2] - 841:19, 918:16</p> <p>permit [1] - 918:12</p> <p>person [60] - 791:5, 791:9, 791:13, 792:1, 792:18, 793:6, 793:21, 802:10, 803:13, 803:16, 804:9, 804:13, 804:17, 805:2, 805:24, 809:9, 810:8, 816:13, 819:5, 820:24, 822:11, 823:18, 832:4, 832:6, 834:1, 835:24, 837:11, 837:14, 838:7, 838:21, 841:7, 841:12, 858:23, 861:3, 861:24, 863:4, 863:6, 863:12, 863:25, 875:3, 875:6, 875:8, 897:10, 908:11, 908:13, 909:20, 909:24, 910:6, 910:9, 913:20, 915:19, 915:21, 935:15, 936:25, 941:25, 944:20, 948:5, 960:25, 985:18</p> <p>personnel [1] - 897:11</p> <p>pertaining [1] - 927:25</p> <p>perusing [2] - 896:15, 996:25</p> <p>ph [3] - 892:19, 893:5, 899:24</p> <p>Philippines [2] - 874:4, 874:5</p> <p>phone [5] - 800:7, 958:14, 958:16, 958:19, 960:13</p> <p>photo [9] - 791:24, 792:1, 792:2, 814:21, 890:21, 890:24, 891:20, 893:1, 894:5</p> <p>photograph [15] - 803:15, 876:17, 878:8, 890:11, 890:12, 892:2, 892:16, 893:21, 894:5, 898:9, 901:3, 908:10, 935:21, 936:22, 938:13</p> <p>photographed [3] - 890:4, 890:7</p> <p>photographs [6] - 890:5, 890:8, 898:1, 898:13, 909:4, 913:3</p> <p>photos [4] - 790:22, 816:11, 878:11, 880:21</p> <p>pick [4] - 821:18, 836:20, 923:16, 959:21</p> <p>picking [2] - 836:19, 975:11</p> <p>picture [5] - 804:3, 891:14, 936:6, 982:14</p> <p>pictured [1] - 941:6</p> <p>pictures [2] - 804:2, 820:22</p> <p>piece [3] - 925:11, 967:2, 967:4</p> <p>Pierrepoint [2] - 872:1, 872:4</p> <p>pile [7] - 891:8, 891:20, 892:3, 892:13, 893:24, 894:13</p>	<p>pinpoint [2] - 884:24, 885:6</p> <p>pipe [2] - 828:21, 828:24</p> <p>place [7] - 815:6, 879:13, 890:7, 899:18, 924:10, 935:4, 983:14</p> <p>Place [67] - 822:1, 826:3, 829:22, 830:4, 837:22, 839:13, 839:19, 841:13, 841:15, 858:10, 858:12, 858:16, 858:17, 869:3, 907:11, 907:12, 907:14, 907:16, 907:25, 918:18, 918:20, 919:14, 920:17, 921:8, 934:17, 934:25, 935:6, 936:17, 936:18, 938:19, 939:3, 939:16, 939:21, 940:3, 940:6, 940:15, 941:11, 942:6, 942:8, 943:3, 944:7, 944:14, 945:5, 945:6, 947:1, 958:16, 959:7, 959:15, 959:22, 960:2, 960:5, 963:13, 963:20, 975:5, 982:3, 982:6, 983:4, 986:1, 992:2, 993:2, 994:4, 994:16, 994:18, 994:20, 995:2, 995:6, 995:22</p> <p>places [3] - 858:11, 858:19, 985:20</p> <p>plastic [1] - 794:23</p> <p>Plaza [2] - 784:17, 784:22</p> <p>plea [1] - 811:14</p> <p>plead [2] - 809:2, 810:15</p> <p>pleading [1] - 811:6</p> <p>pleasure [1] - 906:15</p> <p>pled [3] - 808:22, 809:4, 810:21</p> <p>Plexiglass [3] - 835:1, 835:3, 835:6</p> <p>plus [2] - 916:12, 916:14</p> <p>pocket [3] - 894:18, 948:1, 983:2</p> <p>pockets [2] - 822:24, 822:25</p> <p>point [17] - 789:14, 808:3, 821:8, 823:21, 825:10, 825:11, 831:11, 831:23, 858:13, 911:17, 924:23, 925:17, 925:20, 998:13, 998:15</p> <p>pointed [2] - 822:22, 827:19</p> <p>police [14] - 826:15, 849:17, 850:13, 850:14, 866:22, 889:19, 890:10, 895:22, 897:13, 899:23, 976:15, 981:2</p> <p>Police [2] - 888:3, 899:24</p> <p>policy [1] - 997:21</p> <p>position [3] - 873:4, 873:5, 1000:21</p> <p>possession [1] - 980:8</p> <p>possible [11] - 885:15, 885:16, 887:1, 887:2, 890:1, 894:19, 897:6, 897:22, 899:4, 900:19, 969:12</p> <p>possibly [4] - 799:20, 903:6, 993:14</p> <p>potentially [3] - 846:16, 846:18, 898:5</p> <p>pound [19] - 815:19, 948:15, 948:17, 948:18, 957:1, 957:2, 957:3, 957:5, 957:6, 957:12, 957:14, 957:17, 957:20, 957:23, 958:1, 985:4, 985:5</p> <p>pounds [8] - 825:19, 827:16, 827:17, 883:11, 984:16, 984:17, 984:22</p> <p>powder [18] - 879:24, 880:4, 880:6, 880:23, 880:24, 884:20, 884:24, 885:1, 885:3, 885:5, 885:23, 885:24, 886:11, 886:13, 886:16, 886:21, 886:22</p> <p>practice [1] - 874:12</p> <p>praddy [4] - 982:14, 985:21, 990:15, 999:19</p>	<p>PRADDY [4] - 784:8, 912:22, 1005:25, 1006:4</p> <p>Praddy [27] - 798:21, 799:9, 800:2, 844:25, 883:3, 904:12, 912:19, 912:21, 913:3, 913:9, 913:23, 914:7, 914:8, 914:23, 916:17, 918:5, 928:14, 931:18, 932:6, 932:15, 932:20, 933:5, 954:21, 979:5, 980:2, 990:12, 996:21</p> <p>Praddy's [1] - 796:10</p> <p>praying [1] - 974:17</p> <p>precinct [1] - 899:25</p> <p>precise [1] - 880:17</p> <p>precisely [1] - 880:11</p> <p>prefer [1] - 853:14</p> <p>preference [1] - 864:14</p> <p>prejudicing [1] - 972:22</p> <p>prepare [1] - 1003:12</p> <p>prepared [1] - 1003:8</p> <p>presence [1] - 877:21</p> <p>present [16] - 785:19, 812:7, 830:1, 861:12, 861:14, 865:4, 865:6, 865:8, 870:22, 904:3, 906:7, 906:13, 926:12, 953:10, 993:8, 993:12</p> <p>presentation [1] - 1004:3</p> <p>presently [2] - 807:9, 914:12</p> <p>preserved [1] - 903:21</p> <p>pressure [2] - 903:9, 903:10</p> <p>pressures [1] - 1002:18</p> <p>pretend [1] - 792:13</p> <p>Pretrial [4] - 809:6, 809:7, 809:25, 854:23</p> <p>pretty [7] - 852:10, 852:11, 859:19, 859:20, 972:22, 999:4, 1000:9</p> <p>previous [6] - 842:6, 904:25, 911:9, 927:14, 929:18</p> <p>previously [4] - 869:14, 869:19, 904:8, 922:6</p> <p>price [2] - 957:10, 957:11</p> <p>prices [1] - 951:12</p> <p>principal [1] - 997:22</p> <p>print [2] - 899:4, 928:17</p> <p>prints [1] - 900:15</p> <p>prison [8] - 846:23, 847:6, 848:1, 848:7, 855:14, 912:2, 912:4, 912:7</p> <p>problem [5] - 826:7, 826:16, 828:11, 830:25, 831:2</p> <p>problems [11] - 806:12, 826:4, 826:20, 828:9, 828:15, 828:25, 859:15, 859:17, 873:13, 1000:25</p> <p>proceeding [2] - 842:6, 911:9</p> <p>Proceedings [1] - 784:24</p> <p>proceedings [4] - 842:10, 845:12, 860:9, 860:24</p> <p>processed [8] - 890:6, 890:8, 899:17, 899:20, 899:22, 900:7, 900:14, 900:18</p> <p>processing [3] - 898:7, 899:18, 899:21</p> <p>produced [2] - 784:25, 890:3</p> <p>profit [1] - 952:3</p> <p>Program [1] - 973:25</p> <p>program [7] - 967:7, 967:8, 970:5, 970:6, 970:8, 973:11, 974:1</p>
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<p>progress [1] - 927:7 promised [1] - 813:4 promoted [1] - 925:20 proof [1] - 994:10 proposed [2] - 1000:4, 1003:20 prosecutor [1] - 895:10 protect [7] - 852:24, 853:1, 853:5, 853:8, 853:9, 853:11, 853:14 protest [1] - 824:14 provide [3] - 812:11, 978:11, 1001:9 provided [1] - 812:10 PS [1] - 934:13 publish [2] - 917:23, 924:4 pull [5] - 976:12, 976:13, 976:15, 987:18, 988:17 pulled [3] - 827:18, 835:16, 987:16 punished [1] - 848:15 purchase [7] - 908:20, 908:25, 909:2, 917:14, 917:15, 950:16, 951:5 purchased [6] - 950:14, 950:18, 950:25, 951:1, 951:3, 951:17 purchasing [2] - 950:18, 950:24 pure [1] - 897:22 purple [2] - 789:15, 818:22 purpose [1] - 928:9 pushed [2] - 830:2, 830:3 put [11] - 832:3, 835:9, 877:5, 877:24, 892:9, 899:3, 899:19, 948:4, 948:5, 973:1, 997:13 puts [1] - 900:2 putting [5] - 787:13, 878:8, 893:17, 984:11, 1002:17</p>	<p>quite [3] - 913:19, 925:13, 980:20</p> <p style="text-align: center;">R</p> <p>rabbit [2] - 816:23, 816:24 race [1] - 877:17 racketeering [1] - 1000:14 radius [1] - 818:2 raised [1] - 957:19 raises [1] - 978:16 Raleigh [74] - 822:1, 826:3, 829:22, 830:4, 837:22, 839:13, 839:19, 841:13, 841:15, 858:10, 858:12, 858:15, 858:17, 869:3, 907:11, 907:12, 907:14, 907:15, 907:16, 907:25, 908:1, 918:18, 918:20, 919:14, 920:17, 921:8, 934:17, 934:25, 935:6, 936:17, 936:18, 938:19, 939:3, 939:5, 939:16, 939:21, 940:3, 940:6, 940:15, 941:11, 942:6, 942:8, 943:3, 944:7, 944:14, 945:5, 945:6, 946:3, 947:1, 955:14, 955:15, 958:16, 959:6, 959:15, 959:22, 960:2, 960:5, 963:13, 963:20, 965:8, 975:5, 982:3, 982:6, 983:4, 986:1, 992:1, 993:2, 994:4, 994:16, 994:18, 994:20, 995:2, 995:5, 995:22 ran [12] - 822:21, 822:22, 849:16, 947:11, 948:22, 948:25, 953:18, 954:18, 955:9, 975:12, 975:13, 988:18 range [1] - 813:18 rank [1] - 888:22 reached [3] - 829:14, 830:8, 830:12 read [1] - 997:6 ready [1] - 785:21 real [1] - 902:11 realize [1] - 810:11 realized [1] - 810:13 really [8] - 823:4, 835:7, 851:17, 863:24, 869:1, 886:6, 946:20, 986:13 reason [13] - 846:15, 848:23, 852:21, 852:22, 897:21, 898:23, 900:7, 954:2, 966:4, 987:4, 988:13, 995:1, 996:2 rebar [1] - 828:21 rebuttal [1] - 1003:6 receive [4] - 810:24, 811:3, 888:20, 960:13 received [11] - 821:5, 821:16, 877:3, 889:8, 893:15, 896:1, 950:2, 958:13, 958:16, 958:19, 965:16 receiving [1] - 974:4 recent [1] - 814:5 recently [2] - 869:25, 948:22 recess [1] - 861:11 recessed [2] - 905:7, 952:23 recognize [20] - 787:15, 790:23, 790:24, 791:5, 791:9, 791:13, 791:19, 792:1, 793:7, 811:12, 816:12, 820:23, 832:4, 832:8, 832:13, 909:20, 922:7, 929:4, 937:13, 997:3 recognized [2] - 833:3, 833:4</p>	<p>recollection [3] - 897:16, 983:23, 984:18 reconvene [1] - 903:12 record [17] - 785:2, 785:10, 785:13, 789:16, 819:2, 872:17, 903:21, 904:7, 906:10, 906:18, 912:20, 916:16, 923:7, 924:6, 961:25, 972:4, 1001:15 recorded [1] - 784:24 records [21] - 923:2, 923:4, 923:7, 923:24, 924:2, 924:19, 926:4, 927:6, 930:12, 930:13, 961:22, 961:24, 962:1, 964:2, 965:20, 968:5, 968:7, 969:2, 969:4, 969:7 recover [3] - 879:9, 888:18 recovered [4] - 879:2, 880:15, 890:8, 890:9 red [1] - 891:19 redirect [1] - 869:9 REDIRECT [4] - 869:11, 901:20, 1005:8, 1005:20 refer [2] - 996:10, 998:24 referencing [1] - 900:9 referred [4] - 874:23, 879:4, 879:7, 880:20 referring [2] - 814:23, 908:11 reflect [3] - 785:10, 789:16, 819:2 reform [1] - 997:21 refresh [1] - 896:11 refreshing [1] - 896:13 regarding [3] - 845:12, 860:9, 885:23 register [2] - 788:1, 835:3 Rego [3] - 949:1, 949:2, 949:15 regular [5] - 806:6, 841:2, 911:1, 920:14, 951:9 regularly [2] - 836:14, 880:1 related [6] - 794:20, 808:23, 811:5, 811:14, 811:23, 820:7 relates [1] - 927:23 relation [2] - 899:12, 899:13 relationship [2] - 819:19, 994:2 released [2] - 855:8, 855:10 relevance [2] - 968:9, 969:12 relevancy [2] - 1001:11, 1002:13 relevant [4] - 968:10, 968:13, 968:18, 971:5 reloaded [1] - 902:1 remain [2] - 854:18, 897:22 remains [1] - 902:23 remarks [2] - 998:24, 1003:9 remember [29] - 789:10, 794:5, 799:4, 804:4, 847:11, 852:14, 852:15, 863:22, 934:12, 945:13, 946:13, 954:4, 954:9, 955:19, 958:21, 961:14, 961:19, 975:25, 976:22, 979:22, 979:23, 980:17, 980:18, 980:22, 987:7, 988:5, 988:12 renew [1] - 920:6 rent [1] - 914:2 rented [1] - 908:3 repeat [2] - 925:12, 1003:23 rephrase [1] - 947:12</p>
<p style="text-align: center;">Q</p> <p>Q41 [1] - 962:14 Q7 [1] - 962:14 quantities [4] - 838:7, 838:11, 838:13, 838:17 quantity [1] - 893:23 quarter [21] - 790:7, 790:8, 800:14, 800:15, 805:17, 815:10, 815:19, 947:10, 947:19, 956:2, 956:3, 956:4, 956:5, 957:1, 957:2, 957:3, 957:5, 984:21 quarters [4] - 838:12, 909:18, 956:19, 956:20 Queens [25] - 798:6, 798:19, 798:22, 799:8, 799:10, 799:12, 799:15, 913:13, 913:14, 914:1, 921:17, 921:20, 921:24, 924:20, 925:10, 930:2, 933:19, 934:5, 935:2, 935:9, 943:8, 949:1, 949:2, 958:15, 958:22 questioning [1] - 996:18 questions [15] - 796:5, 796:12, 860:23, 882:22, 883:4, 894:21, 895:1, 911:12, 911:13, 932:7, 932:9, 971:7, 996:15, 1002:20, 1003:21 quick [1] - 785:4 quickly [1] - 972:22</p>		

<p>report ^[5] - 876:15, 876:24, 877:8, 967:23, 967:24</p> <p>reported ^[1] - 896:14</p> <p>Reporter ^[1] - 784:21</p> <p>reports ^[1] - 969:3</p> <p>represent ^[1] - 883:3</p> <p>request ^[6] - 904:9, 904:10, 904:22, 905:4, 905:5, 906:6</p> <p>requested ^[1] - 896:6</p> <p>requesting ^[1] - 899:21</p> <p>required ^[1] - 813:1</p> <p>respect ^[2] - 838:24, 1000:17</p> <p>respond ^[2] - 888:17, 896:6</p> <p>response ^[1] - 825:1</p> <p>responsibility ^[1] - 888:17</p> <p>rest ^[9] - 932:3, 953:8, 968:23, 969:4, 969:6, 999:6, 1000:25, 1002:7, 1003:22</p> <p>restaurants ^[1] - 872:4</p> <p>rests ^[1] - 902:21</p> <p>result ^[5] - 795:14, 812:23, 839:2, 855:10, 912:2</p> <p>results ^[3] - 881:14, 949:15, 949:22</p> <p>resume ^[1] - 952:20</p> <p>retired ^[2] - 895:4, 895:6</p> <p>return ^[3] - 811:25, 851:6, 920:8</p> <p>review ^[1] - 1002:4</p> <p>revolver ^[3] - 902:1, 902:5, 902:6</p> <p>revolvers ^[2] - 902:1, 902:9</p> <p>Revolvers ^[1] - 902:10</p> <p>Richmond ^[1] - 934:6</p> <p>RICO ^[1] - 826:6</p> <p>Rico ^[12] - 821:2, 821:17, 823:7, 827:9, 827:10, 830:25, 831:2, 831:4, 870:9, 870:11, 870:20, 870:22</p> <p>ride ^[3] - 818:1, 818:4, 943:20</p> <p>riding ^[1] - 856:7</p> <p>ring ^[1] - 892:17</p> <p>rise ^[2] - 952:21, 999:15</p> <p>Rob ^[1] - 809:21</p> <p>robbed ^[1] - 822:10</p> <p>Robert ^[3] - 808:16, 810:6, 810:14</p> <p>Rockaway ^[3] - 934:7, 934:9, 962:12</p> <p>Rockaways ^[1] - 935:10</p> <p>rode ^[1] - 818:12</p> <p>Roker ^[3] - 892:19, 893:5, 894:4</p> <p>rolled ^[3] - 810:7, 829:10, 829:12</p> <p>Rondu ^[5] - 946:1, 946:2, 946:4, 946:6, 946:12</p> <p>room ^[1] - 908:3</p> <p>Roti ^[4] - 890:22, 890:24, 891:14, 982:19</p> <p>rough ^[1] - 863:9</p> <p>roughly ^[3] - 807:19, 840:22</p> <p>round ^[3] - 850:4, 880:2, 902:6</p> <p>Rule ^[1] - 903:16</p> <p>ruler ^[7] - 892:15, 893:1, 893:6, 893:20, 893:22, 894:5</p> <p>rulings ^[1] - 969:18</p> <p>run ^[15] - 803:8, 803:11, 803:24, 823:5, 823:8, 823:18, 824:12, 825:2, 825:3, 825:4, 829:18, 911:6, 936:2, 955:13,</p>	<p>987:19</p> <p>run-ins ^[6] - 803:8, 803:11, 803:24, 829:18, 911:6, 936:2</p> <p>runners ^[1] - 909:3</p> <p>running ^[4] - 824:13, 841:16, 975:12, 987:17</p> <p>rush ^[1] - 996:16</p> <p>rushed ^[1] - 953:3</p> <p>rushing ^[1] - 960:18</p> <p style="text-align: center;">S</p> <p>s' ^[1] - 998:2</p> <p>S-U-L-L-I-V-A-N ^[1] - 887:20</p> <p>safety ^[2] - 887:24, 998:2</p> <p>sale ^[6] - 792:22, 792:24, 802:4, 802:5, 815:20, 961:16</p> <p>sales ^[7] - 809:1, 952:18, 958:6, 982:6, 982:9, 992:5, 992:11</p> <p>saliva ^[2] - 899:4, 900:19</p> <p>salon ^[2] - 814:22, 982:19</p> <p>sandwich ^[1] - 794:25</p> <p>sanitation ^[3] - 977:25, 978:2, 978:4</p> <p>Sanitation ^[4] - 915:23, 915:24, 915:25, 916:5</p> <p>satisfied ^[1] - 835:7</p> <p>Saturday ^[2] - 844:14, 845:24</p> <p>saved ^[2] - 932:4, 932:5</p> <p>saw ^[44] - 792:18, 793:2, 794:6, 798:21, 799:1, 799:4, 799:9, 800:17, 805:24, 817:22, 819:25, 820:15, 823:13, 824:12, 830:2, 830:12, 835:12, 836:16, 837:2, 844:18, 856:23, 857:1, 857:25, 864:4, 864:16, 865:23, 867:9, 867:25, 868:2, 868:22, 869:23, 885:3, 936:10, 950:13, 953:14, 955:11, 991:6, 992:6, 993:3, 994:23, 995:14, 995:24</p> <p>scared ^[8] - 859:7, 859:9, 977:17, 977:19, 977:20, 988:6, 988:12, 988:13</p> <p>Scene ^[3] - 888:9, 888:13, 888:16</p> <p>scene ^[28] - 889:2, 889:17, 889:18, 889:25, 890:3, 890:4, 890:5, 890:6, 892:2, 892:15, 892:16, 893:1, 893:2, 893:6, 893:7, 893:20, 893:21, 894:5, 895:13, 895:16, 896:14, 897:2, 897:19, 897:21, 899:12, 899:13, 900:8, 902:1</p> <p>scenes ^[1] - 888:17</p> <p>School ^[14] - 921:17, 921:18, 924:19, 929:23, 930:1, 962:10, 962:11, 963:12, 964:21, 964:23, 965:2, 965:5, 965:21, 970:22</p> <p>school ^[77] - 815:1, 815:2, 840:18, 908:9, 921:14, 921:16, 921:19, 921:20, 921:21, 921:22, 922:1, 922:3, 922:10, 923:2, 923:4, 923:8, 923:24, 925:7, 925:15, 925:21, 925:25, 926:1, 926:2, 926:4, 926:5, 926:7, 926:13, 927:9, 927:12, 930:11, 930:14, 930:22, 958:23, 961:20, 961:22, 961:24, 962:4, 962:9, 962:13, 962:15, 962:19, 962:21, 963:6, 963:11, 963:17, 963:18, 963:24,</p>	<p>964:2, 964:7, 964:21, 964:23, 964:25, 965:22, 965:25, 966:2, 966:4, 967:10, 968:1, 968:6, 969:2, 969:3, 969:4, 969:6, 969:22, 970:11, 970:21, 970:24, 971:2, 971:6, 971:11, 974:15, 983:21, 993:14, 997:25, 998:3</p> <p>schools ^[4] - 921:23, 967:18, 997:23, 998:8</p> <p>Scotch ^[1] - 864:13</p> <p>screamed ^[1] - 988:7</p> <p>screaming ^[2] - 988:5, 988:12</p> <p>screen ^[12] - 787:14, 814:19, 832:3, 833:5, 877:6, 877:24, 878:8, 882:4, 890:16, 893:17, 894:8, 924:23</p> <p>screwed ^[1] - 870:5</p> <p>seal ^[1] - 899:19</p> <p>search ^[3] - 976:7, 976:8, 976:15</p> <p>searched ^[4] - 976:12, 976:17, 998:2, 998:10</p> <p>season ^[1] - 921:11</p> <p>seasonal ^[1] - 831:24</p> <p>seat ^[1] - 887:18</p> <p>seated ^[5] - 903:15, 914:9, 953:11, 999:17, 999:18</p> <p>second ^[7] - 789:9, 796:15, 846:1, 962:25, 975:8, 977:11, 1000:18</p> <p>secretary ^[2] - 914:15, 914:16</p> <p>sectioned ^[1] - 834:25</p> <p>see ^[103] - 787:21, 788:13, 789:11, 793:2, 793:10, 794:16, 799:3, 803:21, 804:23, 804:25, 805:3, 817:11, 818:17, 819:22, 819:24, 820:1, 820:3, 820:5, 823:5, 823:8, 825:13, 825:22, 825:24, 826:1, 832:17, 835:11, 836:1, 836:3, 836:5, 836:11, 836:13, 856:24, 856:25, 857:9, 857:11, 857:12, 857:17, 858:2, 863:10, 863:20, 864:15, 864:18, 864:20, 864:21, 864:23, 867:24, 871:8, 872:7, 877:6, 878:9, 880:21, 880:23, 885:22, 891:3, 891:6, 891:14, 891:20, 893:18, 894:3, 894:6, 898:2, 899:3, 899:13, 901:3, 903:7, 903:9, 905:6, 910:16, 911:1, 911:4, 918:2, 919:8, 922:7, 926:7, 928:11, 933:22, 934:21, 936:6, 945:19, 945:21, 950:10, 957:22, 968:7, 969:12, 972:1, 976:3, 976:5, 979:2, 983:11, 985:21, 986:18, 990:9, 990:10, 993:24, 995:2, 995:16, 997:13, 997:14, 998:25, 999:4, 999:14, 1000:25, 1004:7</p> <p>seeing ^[4] - 871:5, 884:19, 897:18, 897:19</p> <p>sell ^[71] - 788:21, 792:10, 793:17, 800:14, 802:16, 804:18, 814:12, 814:16, 815:8, 815:12, 815:16, 820:12, 820:13, 820:14, 822:3, 822:16, 823:24, 823:25, 829:4, 831:24, 832:1, 838:7, 838:11, 841:13, 841:19, 849:23, 850:15, 938:12, 939:6, 940:18, 944:11, 944:13, 944:15, 944:20, 946:8, 946:10, 946:12, 946:23, 946:25, 947:2, 947:5,</p>
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<p>947:18, 947:19, 947:21, 947:22, 947:23, 947:25, 950:7, 950:14, 951:23, 951:25, 952:4, 952:5, 952:6, 952:11, 952:14, 960:5, 981:8, 983:23, 984:24, 985:2, 992:8, 992:14, 992:18, 993:22, 994:17, 995:5, 996:5, 996:7, 996:11</p> <p>selling [98] - 788:14, 788:18, 788:20, 792:14, 793:23, 793:24, 793:25, 794:1, 794:20, 795:10, 801:16, 802:1, 802:9, 803:3, 807:17, 807:18, 808:23, 809:2, 813:6, 813:12, 813:22, 813:24, 814:2, 815:9, 817:18, 820:9, 820:10, 823:15, 825:10, 826:8, 826:25, 827:1, 827:6, 827:13, 827:15, 828:12, 828:19, 829:21, 829:25, 831:11, 831:16, 837:5, 837:6, 838:13, 838:17, 840:10, 841:1, 841:4, 850:2, 850:9, 850:20, 851:2, 854:2, 860:3, 860:5, 862:9, 862:14, 863:7, 863:8, 863:15, 863:18, 863:19, 866:5, 866:8, 866:9, 866:17, 868:19, 868:20, 868:21, 939:19, 947:14, 951:16, 951:22, 951:23, 951:25, 952:3, 953:17, 980:5, 981:7, 981:10, 981:13, 983:15, 984:12, 991:10, 991:11, 991:12, 991:17, 991:18, 991:19, 993:3, 993:8, 993:10, 993:13, 993:16, 993:20, 994:3, 994:19, 995:17</p> <p>sells [5] - 938:9, 938:11, 938:20, 939:5, 995:12</p> <p>semester [2] - 964:20, 964:23</p> <p>sense [8] - 984:13, 987:17, 987:18, 999:1, 999:9, 1000:13, 1003:16, 1003:19</p> <p>sent [1] - 904:23</p> <p>sentence [9] - 810:24, 811:2, 812:14, 812:15, 813:1, 813:4, 847:12, 847:14, 905:2</p> <p>sentenced [3] - 810:16, 810:20, 810:22</p> <p>separate [1] - 901:6</p> <p>separated [4] - 919:24, 920:3, 920:16, 924:16</p> <p>separately [1] - 794:7</p> <p>separation [1] - 919:25</p> <p>September [2] - 933:11, 933:13</p> <p>sequentially [1] - 900:1</p> <p>service [1] - 801:1</p> <p>services [1] - 897:3</p> <p>serving [1] - 868:18</p> <p>session [8] - 962:22, 962:24, 962:25, 963:1, 963:2, 963:3, 963:4</p> <p>SESSION [1] - 906:1</p> <p>sessions [1] - 962:21</p> <p>set [1] - 897:21</p> <p>SETH [1] - 784:16</p> <p>seven [9] - 788:12, 798:8, 798:16, 798:17, 830:24, 831:4, 844:18, 845:5, 913:11</p> <p>several [9] - 808:7, 808:16, 831:15, 860:19, 860:21, 869:16, 883:19, 884:16, 884:17</p>	<p>sex [1] - 877:17</p> <p>shaking [2] - 786:21</p> <p>Shanell [2] - 906:17, 906:19</p> <p>SHANELL [2] - 906:19, 1005:22</p> <p>SHANELL [1] - 906:21</p> <p>shape [1] - 929:5</p> <p>shift [15] - 798:10, 831:4, 855:21, 856:1, 856:7, 856:19, 856:22, 857:14, 857:18, 858:2, 866:18, 867:14, 870:11, 888:24</p> <p>shirt [10] - 789:15, 881:3, 892:20, 893:2, 893:6, 893:24, 894:4, 914:10, 954:19</p> <p>shit [2] - 822:20, 870:19</p> <p>shoot [12] - 825:22, 825:24, 826:1, 827:20, 827:23, 829:15, 829:23, 935:11, 935:13, 935:15, 936:4, 978:18</p> <p>shooting [1] - 896:5</p> <p>shootings [1] - 859:6</p> <p>shop [5] - 814:22, 890:22, 890:24, 891:14, 982:19</p> <p>shopping [1] - 806:8</p> <p>short [10] - 826:9, 826:19, 828:12, 829:5, 829:20, 859:14, 868:7, 869:1, 925:6, 952:6</p> <p>shorter [2] - 862:17, 976:11</p> <p>shorting [1] - 826:25</p> <p>shortly [2] - 785:22, 898:3</p> <p>shot [8] - 826:3, 833:18, 833:19, 833:23, 834:1, 838:25, 878:14, 978:20</p> <p>shots [1] - 826:3</p> <p>shoulders [1] - 835:19</p> <p>shoveled [1] - 978:5</p> <p>show [28] - 790:22, 792:25, 803:15, 816:11, 820:22, 863:2, 878:15, 908:10, 909:4, 923:10, 927:10, 928:14, 935:21, 938:13, 940:11, 953:22, 959:14, 960:11, 964:13, 968:16, 968:17, 968:21, 969:1, 969:9, 969:22, 972:18, 973:13, 973:14</p> <p>showed [3] - 881:15, 881:19, 898:9</p> <p>showing [17] - 811:10, 814:19, 816:12, 819:5, 876:16, 878:2, 878:13, 889:10, 891:9, 891:23, 892:11, 892:23, 935:25, 965:10, 968:9, 982:14, 996:21</p> <p>shown [1] - 814:21</p> <p>shows [6] - 845:24, 851:8, 853:19, 878:12, 924:23, 970:14</p> <p>shrugged [1] - 835:19</p> <p>siblings [1] - 919:4</p> <p>side [4] - 822:1, 835:3, 878:12, 891:12</p> <p>sidewalk [9] - 889:13, 889:17, 890:15, 890:19, 890:20, 891:12, 891:13, 892:1, 983:3</p> <p>sidewalks [1] - 978:6</p> <p>signed [5] - 844:10, 851:13, 851:15, 854:16, 855:12</p> <p>significance [2] - 883:25, 886:24</p> <p>significant [2] - 877:19, 877:20</p> <p>signifies [1] - 873:8</p> <p>signify [1] - 873:7</p>	<p>similar [1] - 886:19</p> <p>Simon [7] - 876:4, 876:6, 876:15, 876:19, 877:9, 881:22, 883:7</p> <p>Simon's [3] - 881:4, 881:12, 881:23</p> <p>simple [1] - 989:12</p> <p>simply [2] - 799:19, 802:9</p> <p>single [2] - 932:4, 992:4</p> <p>sister [3] - 933:21, 934:1, 935:7</p> <p>sit [1] - 872:13</p> <p>site [2] - 887:24, 890:2</p> <p>sitting [15] - 796:11, 843:4, 908:13, 910:18, 913:20, 914:8, 915:19, 919:10, 919:11, 919:19, 920:25, 933:24, 934:23, 999:12, 1001:14</p> <p>six [18] - 804:14, 804:15, 818:2, 825:19, 840:1, 857:24, 862:24, 862:25, 880:10, 880:17, 885:9, 902:2, 907:3, 912:5, 912:7, 942:5, 983:20</p> <p>six-block [1] - 818:2</p> <p>six-one [3] - 825:19, 840:1, 862:24</p> <p>sixth [1] - 925:23</p> <p>size [1] - 823:3</p> <p>sketch [2] - 890:3</p> <p>skin [1] - 885:12</p> <p>sleep [1] - 998:20</p> <p>slim [1] - 817:16</p> <p>slow [1] - 851:18</p> <p>small [4] - 794:25, 805:14, 805:16, 805:17</p> <p>smaller [1] - 794:25</p> <p>SMITH [2] - 882:21, 887:12</p> <p>smoked [9] - 809:13, 809:17, 809:23, 810:2, 810:3, 810:7, 853:3, 883:16, 884:12</p> <p>smoking [4] - 809:10, 810:5, 853:4, 881:18</p> <p>snippets [1] - 1004:4</p> <p>snow [1] - 978:5</p> <p>Snyder [1] - 822:21</p> <p>sold [57] - 789:1, 801:21, 801:24, 802:14, 802:18, 804:1, 804:5, 804:7, 804:11, 814:25, 815:17, 816:4, 828:4, 829:5, 837:15, 837:25, 838:9, 850:4, 858:21, 863:12, 863:16, 870:11, 940:17, 941:13, 944:8, 944:12, 944:18, 946:7, 946:13, 946:14, 946:15, 946:18, 946:20, 946:21, 947:15, 947:25, 950:17, 951:12, 952:10, 953:14, 954:20, 958:3, 980:2, 981:16, 982:23, 982:25, 983:3, 983:5, 983:16, 984:14, 984:15, 992:8, 995:14, 995:24, 996:1, 996:3</p> <p>someone [4] - 809:4, 823:8, 823:15, 824:13</p> <p>sometime [7] - 793:8, 808:9, 829:7, 867:16, 896:1, 993:14, 993:15</p> <p>sometimes [26] - 790:11, 793:8, 804:20, 823:22, 825:6, 826:13, 827:9, 831:15, 850:14, 857:15, 858:2, 863:9, 909:14, 909:15, 948:20, 959:23, 959:24, 959:25, 960:4, 960:9, 979:18,</p>
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<p>983:5, 987:5, 993:17, 998:24 somewhere [6] - 797:1, 883:21, 948:4, 948:5, 948:6, 952:11 son [7] - 913:23, 915:4, 915:11, 915:12, 918:5, 921:2, 927:1 son's [1] - 928:20 soot [2] - 880:6, 885:5 sorry [16] - 786:18, 791:17, 804:9, 819:7, 820:4, 824:20, 838:3, 886:1, 898:15, 913:7, 921:13, 925:12, 933:12, 963:5, 996:24, 997:7 sort [4] - 787:25, 880:4, 902:9, 1002:16 sources [1] - 985:20 South [1] - 890:19 south [2] - 891:13, 921:22 spade [1] - 950:21 Spade [1] - 950:22 spare [1] - 971:16 speaking [1] - 794:16 specific [1] - 900:5 specifically [3] - 889:5, 1000:15, 1001:3 speculate [2] - 1003:25, 1004:5 speed [1] - 930:25 spell [5] - 786:1, 787:9, 787:10, 872:17, 887:19 spelled [1] - 872:21 spend [8] - 807:18, 813:14, 815:9, 848:1, 848:7, 848:12, 848:13, 912:4 spent [7] - 846:22, 854:10, 854:14, 901:9, 901:11, 901:22, 901:25 spoken [1] - 905:4 stabbed [6] - 831:9, 838:25, 870:11, 870:16, 870:17, 870:23 stabblings [1] - 859:6 stand [8] - 804:19, 879:12, 904:13, 906:17, 912:19, 932:15, 983:13, 989:3 standing [5] - 947:21, 983:1, 983:14, 992:24, 993:1 start [10] - 785:4, 797:5, 797:8, 797:16, 797:20, 813:22, 836:13, 863:15, 867:1, 979:20 started [23] - 795:22, 795:23, 816:5, 820:9, 822:20, 841:1, 841:4, 847:2, 847:5, 854:2, 856:1, 856:11, 862:14, 863:18, 863:19, 866:17, 867:5, 868:15, 888:25, 898:1, 975:11, 979:22, 981:7 starting [3] - 791:23, 822:15, 877:5 stash [1] - 815:6 state [8] - 786:1, 806:22, 887:19, 906:18, 912:20, 913:6, 913:8, 932:19 State [2] - 874:12, 972:24 states [1] - 900:3 STATES [3] - 784:1, 784:4, 784:12 States [4] - 784:7, 784:15, 784:17, 874:6 stating [2] - 812:3, 899:20 statute [1] - 811:2 stay [5] - 857:16, 902:4, 921:8, 936:21, 983:19</p>	<p>stayed [1] - 869:5 staying [1] - 935:4 stenography [1] - 784:24 step [8] - 806:17, 871:14, 877:12, 877:13, 887:10, 890:2, 912:15, 932:11 stepped [2] - 835:18, 868:17 stick [1] - 894:6 sticking [1] - 822:23 still [6] - 848:25, 859:12, 886:7, 919:21, 1001:4, 1001:10 stippling [2] - 884:23, 884:24 stipulate [3] - 971:13, 971:18, 1003:5 stipulated [1] - 971:11 stipulating [1] - 972:17 stood [2] - 823:2 stop [13] - 792:8, 795:25, 797:6, 810:5, 831:11, 866:8, 866:9, 866:14, 872:5, 934:10, 934:13, 934:14, 994:19 stopped [5] - 809:10, 831:17, 831:18, 831:19, 853:23 stops [1] - 978:6 store [115] - 786:15, 786:16, 787:1, 787:3, 787:4, 787:7, 787:16, 787:17, 788:14, 788:21, 789:1, 792:5, 792:6, 792:10, 792:13, 793:8, 793:10, 793:15, 793:20, 793:22, 794:19, 795:1, 795:5, 795:6, 796:2, 796:18, 796:23, 797:6, 797:8, 797:11, 797:21, 798:3, 798:4, 798:6, 798:22, 799:5, 799:10, 800:12, 800:17, 800:24, 801:1, 801:7, 801:17, 801:18, 801:20, 801:21, 801:24, 802:1, 802:3, 802:4, 802:5, 802:7, 802:10, 802:11, 802:16, 802:18, 803:4, 803:16, 803:21, 804:5, 804:7, 804:20, 804:25, 805:24, 805:25, 806:1, 806:3, 814:17, 814:22, 814:23, 828:19, 829:19, 829:22, 829:25, 830:2, 834:17, 834:23, 834:24, 834:25, 835:17, 835:18, 837:16, 837:18, 837:23, 865:23, 866:3, 867:19, 867:20, 868:17, 869:3, 871:6, 947:3, 953:23, 953:25, 954:1, 954:2, 954:4, 954:5, 954:7, 982:19, 982:20, 982:21, 982:23, 982:25, 983:1, 983:2, 983:3, 983:5, 983:10, 992:25, 993:1 storefront [2] - 889:14, 889:15 stores [1] - 797:25 straight [2] - 871:24, 919:16 street [15] - 793:9, 793:11, 804:22, 842:14, 842:17, 896:24, 897:7, 901:4, 907:10, 934:13, 947:21, 979:10, 979:11, 979:12, 982:20 Street [5] - 872:1, 872:4, 924:12, 934:9, 962:12 streets [2] - 837:21, 872:1 stretch [1] - 845:14 student [3] - 964:17, 964:19, 967:17 students [2] - 997:23, 997:25 study [1] - 873:12 stuff [2] - 818:3, 994:15 style [1] - 835:23 Stylz [2] - 832:11, 934:15</p>	<p>submit [1] - 902:20 submitted [1] - 879:14 substantial [1] - 863:24 sudden [1] - 873:19 suddenly [1] - 875:9 sufficient [1] - 903:19 suggest [1] - 808:13 suggested [1] - 846:12 suggestion [1] - 854:18 suicide [1] - 875:8 suicides [1] - 873:21 suit [2] - 914:9, 914:10 Sulzer [1] - 784:21 summations [1] - 998:24 summer [1] - 965:6 summertime [3] - 869:22, 869:23, 993:14 sunglasses [1] - 833:3 supplied [1] - 993:22 suppliers [4] - 986:4, 986:8, 986:16, 986:20 supplying [2] - 987:2, 987:3 support [3] - 827:7, 859:23, 859:24 supported [3] - 860:2, 860:3, 860:5 surmise [1] - 1000:23 surprise [1] - 872:16 surprised [2] - 799:9, 950:10 surrounding [1] - 875:5 suspect [2] - 998:21, 1002:21 suspicious [1] - 817:23 sustain [1] - 968:18 Sustained [2] - 794:9, 799:22 sustained [6] - 794:12, 799:25, 992:16, 1001:22, 1002:3, 1002:6 swabbed [1] - 900:19 sweat [4] - 881:3, 892:19, 893:5, 894:4 sweat-jacket [1] - 881:3 sweatshirt [1] - 892:20 sworn [6] - 786:4, 807:2, 872:11, 906:22, 912:23, 932:17 sworn/affirmed [1] - 887:16 system [1] - 848:16</p> <p style="text-align: center;">T</p> <p>T-A-Y-A-R [1] - 787:22 T-H-O-M-A-S [1] - 806:23 T-shirt [3] - 892:20, 893:24 table [1] - 851:4 tall [5] - 804:13, 839:25, 862:23, 862:25, 942:4 taller [1] - 862:17 tank [4] - 892:20, 892:25, 893:20, 893:22 tape [11] - 889:18, 953:14, 985:6, 990:9, 992:3, 992:6, 993:24, 995:13, 995:14, 995:16, 995:24 tapes [2] - 946:9, 960:19 tax [2] - 851:2, 851:6 Tayar [1] - 788:10</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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<p>teachers [2] - 824:4, 824:5</p> <p>teen [1] - 919:15</p> <p>teenagers [1] - 818:13</p> <p>telephone [1] - 800:6</p> <p>ten [38] - 792:9, 809:19, 811:4, 812:13, 812:16, 815:21, 815:22, 835:17, 838:9, 847:2, 847:6, 847:12, 847:14, 847:20, 848:1, 848:12, 848:18, 848:24, 851:9, 851:12, 852:8, 852:16, 852:19, 855:14, 855:18, 926:23, 926:24, 951:8, 952:20, 978:10, 984:2, 984:3, 984:4, 984:6, 984:7</p> <p>ten-to-life [10] - 847:2, 847:12, 847:14, 847:20, 851:9, 851:12, 852:8, 852:16, 852:19</p> <p>Terminal [1] - 934:14</p> <p>terms [5] - 842:9, 994:3, 1000:14, 1000:20, 1000:21</p> <p>terribly [1] - 998:17</p> <p>terror [1] - 830:2</p> <p>Terror [7] - 820:25, 825:23, 826:1, 826:2, 826:6, 829:21, 830:21</p> <p>test [8] - 799:23, 880:16, 949:3, 949:4, 949:8, 949:15, 949:16, 950:5</p> <p>testified [30] - 786:5, 807:3, 841:25, 842:7, 842:11, 842:12, 842:13, 842:15, 842:17, 842:20, 843:2, 843:5, 860:10, 860:11, 869:14, 869:19, 869:21, 869:25, 872:12, 872:14, 874:15, 887:17, 903:24, 904:14, 906:23, 912:24, 932:18, 941:1, 976:1, 978:15</p> <p>testify [4] - 860:9, 897:1, 903:2, 911:8</p> <p>testifying [6] - 845:12, 845:15, 845:16, 845:17, 845:19, 904:3</p> <p>testimonial [1] - 998:22</p> <p>testimony [20] - 843:16, 868:15, 888:19, 903:5, 903:6, 985:3, 987:20, 987:22, 987:24, 990:7, 992:5, 992:7, 993:9, 994:7, 994:12, 999:20, 1000:11, 1002:24, 1004:1, 1004:4</p> <p>tests [4] - 881:12, 881:14, 881:15, 883:20</p> <p>THE [75] - 784:11, 786:1, 786:2, 786:9, 786:22, 787:6, 787:8, 787:10, 787:22, 792:12, 792:15, 793:4, 793:25, 794:14, 806:22, 806:23, 824:2, 824:4, 824:6, 824:8, 824:10, 838:19, 872:15, 872:18, 872:20, 887:14, 887:18, 887:20, 902:18, 903:15, 906:18, 906:19, 912:20, 912:21, 916:19, 916:22, 923:13, 923:15, 929:6, 929:8, 931:25, 932:2, 932:19, 932:20, 936:7, 936:9, 936:12, 950:21, 950:23, 952:21, 953:11, 954:13, 954:25, 955:2, 955:4, 970:13, 974:16, 974:18, 980:14, 980:20, 983:24, 984:3, 984:6, 984:9, 984:15, 989:9, 989:14, 989:18, 990:21, 991:1, 991:4, 991:7, 997:8, 999:15, 999:17</p> <p>The court [239] - 785:2, 785:8, 785:10, 785:16, 785:20, 786:6, 786:10, 786:20,</p>	<p>786:23, 787:5, 787:11, 787:9, 787:11, 787:21, 789:16, 790:4, 790:21, 792:8, 792:13, 792:16, 793:2, 793:5, 793:24, 794:1, 794:9, 794:12, 794:15, 796:6, 799:22, 799:25, 806:15, 806:17, 806:20, 809:5, 811:9, 811:18, 819:4, 823:24, 824:3, 824:5, 824:7, 824:9, 824:11, 833:23, 834:6, 838:16, 839:10, 842:3, 861:9, 861:13, 861:16, 869:9, 871:12, 871:14, 871:16, 871:19, 871:20, 872:13, 872:16, 872:19, 874:22, 876:9, 876:23, 877:2, 882:22, 887:7, 887:9, 892:22, 893:13, 894:21, 901:18, 902:15, 902:19, 902:22, 903:9, 903:16, 903:19, 903:21, 904:6, 904:11, 904:16, 904:23, 905:4, 906:3, 906:9, 906:12, 906:14, 911:13, 912:13, 912:15, 912:17, 916:15, 916:18, 916:21, 917:21, 917:24, 923:10, 923:14, 923:16, 923:19, 923:21, 923:24, 928:7, 928:9, 929:4, 929:7, 929:9, 931:3, 931:5, 931:8, 931:13, 931:16, 931:23, 932:1, 932:8, 932:11, 932:13, 933:16, 935:25, 936:6, 936:8, 936:10, 936:24, 938:1, 949:24, 950:1, 950:20, 950:22, 952:19, 953:2, 953:7, 953:12, 954:12, 954:24, 955:1, 955:3, 955:5, 965:19, 966:9, 966:11, 967:15, 968:3, 968:5, 968:10, 968:13, 968:17, 968:21, 969:1, 969:4, 969:6, 969:9, 969:13, 969:24, 970:1, 970:3, 970:11, 970:14, 970:16, 970:19, 971:5, 971:10, 971:15, 971:24, 972:2, 972:5, 972:8, 972:10, 972:12, 972:14, 972:18, 972:21, 973:1, 973:4, 973:7, 973:9, 973:14, 973:16, 973:19, 973:21, 973:23, 974:1, 974:8, 974:11, 974:14, 974:17, 974:19, 974:22, 978:13, 978:15, 978:23, 979:2, 980:9, 980:13, 980:18, 982:13, 983:22, 984:1, 984:4, 984:7, 984:10, 984:17, 985:15, 989:6, 989:10, 989:15, 989:19, 990:18, 990:22, 991:2, 991:5, 991:8, 992:16, 996:12, 996:19, 997:3, 997:7, 998:14, 999:18, 999:24, 1000:8, 1001:7, 1001:10, 1001:13, 1001:18, 1001:20, 1001:22, 1002:1, 1002:3, 1002:6, 1002:9, 1002:11, 1002:13, 1002:15, 1002:20, 1002:23, 1003:5, 1003:8, 1003:14, 1003:18</p> <p>thereafter [1] - 785:22</p> <p>thick [1] - 834:25</p> <p>thicker [1] - 887:1</p> <p>thigh [16] - 877:22, 877:23, 878:3, 878:19, 878:20, 879:15, 879:18, 882:9, 885:20, 885:21, 886:4, 886:10, 886:11, 886:17, 886:22</p> <p>thinking [1] - 785:12</p> <p>thinks [1] - 952:15</p> <p>third [4] - 821:13, 846:1, 876:17, 975:7</p> <p>thirty [1] - 907:3</p> <p>thirty-six [1] - 907:3</p>	<p>Thomas [6] - 806:21, 806:23, 814:3, 817:14, 839:13, 869:13</p> <p>THOMAS [2] - 807:1, 1005:5</p> <p>thomas [19] - 807:6, 807:21, 808:3, 809:16, 810:16, 811:10, 811:20, 813:7, 816:11, 817:3, 817:7, 817:11, 817:16, 819:11, 820:23, 821:3, 831:11, 832:3, 834:1</p> <p>thousand [10] - 809:3, 815:13, 815:16, 873:25, 914:19, 916:12, 916:14, 984:7, 985:13, 985:17</p> <p>threatened [1] - 829:6</p> <p>three [54] - 786:17, 786:19, 787:1, 789:2, 789:23, 789:24, 801:10, 801:11, 815:10, 820:1, 823:12, 828:16, 834:14, 836:2, 857:3, 857:4, 857:5, 857:7, 857:10, 857:12, 857:19, 857:21, 857:22, 857:23, 867:10, 867:11, 867:13, 867:25, 868:2, 874:4, 876:7, 888:1, 892:2, 892:5, 892:14, 892:15, 895:16, 897:16, 914:23, 916:3, 916:5, 946:22, 946:23, 951:7, 952:11, 987:16, 987:18</p> <p>Three [2] - 905:1, 905:3</p> <p>throughout [1] - 999:12</p> <p>thyroid [2] - 879:2, 882:10</p> <p>timeframe [3] - 1000:19, 1000:20, 1002:16</p> <p>tip [3] - 893:9, 894:7, 894:11</p> <p>title [2] - 917:21, 918:3</p> <p>today [11] - 789:11, 812:6, 812:21, 818:18, 848:23, 852:3, 852:5, 852:7, 879:4, 902:25, 984:13</p> <p>together [13] - 794:7, 819:22, 819:24, 820:12, 916:21, 920:1, 920:4, 920:6, 951:7, 951:23, 952:1, 995:2, 995:22</p> <p>tomorrow [11] - 953:6, 969:18, 996:15, 996:19, 998:20, 999:3, 999:14, 1002:16, 1003:9, 1003:20, 1004:7</p> <p>tonight [1] - 878:17</p> <p>took [9] - 823:23, 831:24, 850:7, 898:10, 898:13, 899:6, 954:25, 965:12, 973:25</p> <p>top [7] - 892:20, 892:25, 893:20, 893:22, 925:6, 925:15, 928:22</p> <p>tops [1] - 834:14</p> <p>Torell [6] - 944:1, 944:2, 995:3, 996:3, 996:5, 996:10</p> <p>Torrel [1] - 823:7</p> <p>Torrell [2] - 908:6, 908:8</p> <p>torso [1] - 878:13</p> <p>toss [1] - 987:18</p> <p>tossed [1] - 987:16</p> <p>totally [1] - 839:15</p> <p>touch [3] - 846:11, 846:13, 846:15</p> <p>touched [2] - 882:4, 897:10</p> <p>touching [1] - 885:12</p> <p>toughing [1] - 885:12</p> <p>toward [2] - 799:21, 869:3</p> <p>towards [7] - 903:10, 921:12, 955:18, 955:22, 975:6, 975:12</p>
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<p>TR ^[4] - 787:4, 787:7, 787:8, 787:11 traffic ^[1] - 992:4 trafficking ^[1] - 992:1 train ^[5] - 959:10, 959:12, 963:9 training ^[5] - 874:1, 874:4, 874:5, 888:20, 973:11 transcript ^[1] - 784:24 TRANSCRIPT ^[1] - 784:11 transcription ^[1] - 784:25 transected ^[1] - 879:1 transgressions ^[1] - 831:16 Transit ^[2] - 916:8, 916:9 travel ^[1] - 797:3 traveled ^[1] - 797:1 traveling ^[1] - 976:6 treated ^[1] - 997:23 treats ^[1] - 948:1 tree ^[5] - 814:24, 822:1, 889:15, 891:21, 891:22 TRIAL ^[1] - 784:11 trial ^[15] - 812:23, 860:24, 903:25, 904:14, 904:25, 936:7, 936:12, 975:25, 998:15, 998:23, 999:5, 999:13, 1000:14, 1000:18, 1004:5 trials ^[1] - 1003:25 trouble ^[3] - 795:10, 843:12, 846:16 true ^[2] - 809:9, 941:3 trust ^[1] - 997:24 truth ^[7] - 799:18, 811:21, 812:4, 812:20, 812:21, 849:10, 849:11 try ^[12] - 786:7, 786:23, 791:3, 822:2, 823:18, 824:12, 829:15, 846:6, 853:4, 930:19, 948:20, 969:9 trying ^[5] - 831:24, 846:2, 852:24, 971:15, 997:6 Tuesday ^[2] - 1003:2, 1003:3 turn ^[5] - 827:24, 829:14, 834:21, 870:18, 899:23 turned ^[2] - 830:13, 890:9 Turtle ^[7] - 817:4, 817:5, 822:15, 822:21, 822:22, 823:3, 823:7 TV ^[1] - 986:10 twelve ^[3] - 850:5, 864:20, 978:10 twenty ^[9] - 816:3, 826:11, 826:12, 827:4, 827:5, 876:7, 895:5, 902:13, 952:9 twenty-eight ^[1] - 952:9 twenty-five ^[1] - 902:13 twenty-three ^[1] - 876:7 twice ^[10] - 815:17, 820:1, 823:12, 836:4, 836:5, 863:24, 864:25, 868:1, 947:7, 947:9 two ^[48] - 788:8, 788:9, 789:4, 789:23, 789:24, 808:2, 809:10, 810:3, 810:5, 826:3, 827:7, 828:16, 831:17, 832:2, 832:24, 840:24, 854:4, 854:7, 857:12, 867:3, 867:5, 867:8, 882:15, 892:2, 896:16, 897:16, 900:9, 900:12, 900:24, 901:2, 901:5, 919:16, 946:20, 946:22, 947:2, 948:14, 956:19, 956:20, 962:21, 975:8, 977:4, 977:10, 980:19, 983:21,</p>	<p>987:6, 996:18, 997:10 type ^[6] - 859:5, 864:9, 892:18, 916:25, 994:15, 1000:10 typed ^[1] - 896:13 types ^[1] - 788:18 typical ^[1] - 902:6 typically ^[1] - 838:7</p> <p style="text-align: center;">U</p> <p>U.S ^[1] - 949:6 under ^[7] - 795:2, 795:3, 811:2, 851:4, 903:10, 984:1, 999:20 undercover ^[2] - 817:23, 818:3 underneath ^[3] - 795:2, 925:3, 925:5 undershirt ^[1] - 881:3 undetermined ^[1] - 875:10 unemployed ^[2] - 807:9, 915:12 unexpected ^[1] - 873:19 unfortunately ^[1] - 833:21 uninformed ^[1] - 889:19 unit ^[4] - 888:8, 888:10, 895:13, 895:16 Unit ^[3] - 888:9, 888:13, 888:16 UNITED ^[3] - 784:1, 784:4, 784:12 United ^[4] - 784:7, 784:15, 784:17, 874:6 University ^[1] - 874:3 unless ^[1] - 902:1 unmarked ^[1] - 889:18 unnatural ^[2] - 873:20 up ^[72] - 786:6, 791:3, 792:11, 792:25, 793:1, 794:6, 795:7, 810:7, 815:1, 815:4, 815:10, 821:18, 822:10, 822:19, 822:22, 828:5, 828:12, 829:5, 829:10, 829:12, 829:20, 831:4, 831:24, 835:25, 836:7, 836:9, 836:10, 836:19, 836:20, 841:7, 845:25, 847:19, 851:8, 853:19, 859:6, 859:14, 870:5, 891:25, 892:13, 892:25, 897:21, 902:10, 904:4, 907:4, 907:5, 915:4, 919:2, 928:22, 936:19, 937:19, 941:16, 946:20, 952:1, 954:14, 954:23, 957:25, 959:14, 959:21, 960:11, 965:1, 966:5, 969:18, 975:11, 977:13, 983:1, 989:3, 997:13, 999:13 upper ^[13] - 877:21, 878:3, 878:12, 878:14, 878:15, 878:16, 878:25, 881:2, 887:2, 891:17, 893:8, 894:6 UPS ^[3] - 840:14, 840:16, 840:24 urine ^[5] - 883:24, 884:1, 884:6, 884:9, 884:11 user ^[2] - 884:2, 884:4 ushered ^[3] - 829:22, 830:2, 830:4 usual ^[1] - 831:3</p> <p style="text-align: center;">V</p> <p>vacant ^[1] - 826:22 vague ^[2] - 845:3, 868:6 van ^[2] - 891:2, 891:7</p>	<p>variable ^[1] - 857:12 varied ^[8] - 813:17, 815:13, 818:13, 822:8, 822:10, 824:2, 824:8, 850:21 various ^[4] - 815:5, 816:10, 834:9, 858:11 vary ^[1] - 857:15 vehicle ^[3] - 917:14, 917:15, 918:2 vehicles ^[3] - 889:19, 897:13, 897:16 vessel ^[2] - 879:5, 882:20 vessels ^[1] - 879:20 viable ^[1] - 1000:17 victim ^[1] - 896:19 videotape ^[3] - 950:18, 951:11, 951:13 vidio ^[6] - 953:22, 955:11, 957:22, 959:18, 959:19 view ^[11] - 872:2, 878:12, 878:15, 889:12, 890:15, 890:18, 891:11, 891:25, 892:13, 892:25, 893:5 violence ^[9] - 825:11, 859:3, 859:5, 990:16, 990:19, 990:24, 991:2, 991:6, 991:9 Virgil ^[3] - 922:4, 926:3, 926:10 visit ^[8] - 920:14, 920:15, 936:18, 942:8, 943:3, 943:5, 944:6, 945:21 visited ^[3] - 910:13, 910:15, 943:13 visits ^[1] - 943:3 visual ^[1] - 877:15 voice ^[3] - 786:6, 786:24, 933:14 voir ^[2] - 928:5, 928:9 VOIR ^[2] - 928:12, 1006:2 voucher ^[4] - 899:10, 900:1, 900:3 vouchered ^[4] - 899:7, 899:14, 899:18, 900:16 vouchering ^[1] - 890:10 vows ^[1] - 920:7</p> <p style="text-align: center;">W</p> <p>waist ^[4] - 829:14, 830:8, 830:12, 835:12 wait ^[2] - 836:20, 871:19 waiting ^[1] - 998:12 wake ^[1] - 815:1 walk ^[9] - 822:20, 871:23, 871:25, 889:25, 892:8, 943:11, 948:1, 963:8 walk-through ^[2] - 889:25, 892:8 walked ^[20] - 827:24, 830:13, 834:20, 835:18, 865:25, 866:2, 866:3, 867:20, 868:17, 868:22, 868:25, 869:1, 869:2, 954:4, 956:9, 956:11, 981:8, 983:11 walking ^[15] - 830:13, 864:22, 868:15, 943:12, 947:24, 955:17, 955:21, 958:8, 975:6, 975:9, 975:10, 977:8, 983:3, 983:11, 993:2 walkway ^[1] - 872:3 wall ^[1] - 835:1 wants ^[2] - 998:2, 1001:10 warning ^[1] - 968:15 wash ^[1] - 951:2 watch ^[1] - 820:19</p>
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<p>water ^[1] - 871:25</p> <p>weapon ^[3] - 938:22, 974:25, 976:12</p> <p>weapons ^[1] - 997:25</p> <p>wear ^[3] - 892:19, 893:5, 894:4</p> <p>wearing ^[3] - 789:14, 789:15, 818:21</p> <p>weather ^[1] - 903:12</p> <p>Wednesday ^[2] - 1003:3, 1003:4</p> <p>weed ^[52] - 788:19, 793:17, 793:23, 793:25, 794:1, 809:10, 810:5, 810:7, 817:9, 818:9, 821:16, 821:17, 822:16, 822:24, 823:24, 826:8, 826:25, 827:1, 827:6, 827:16, 827:23, 828:4, 828:13, 828:15, 828:19, 829:6, 829:21, 831:16, 831:24, 832:25, 833:2, 837:5, 850:4, 850:9, 850:15, 850:20, 851:2, 853:3, 853:4, 854:2, 859:25, 860:5, 862:10, 868:20, 939:5, 939:6, 976:20, 976:21, 976:25, 992:12, 992:14</p> <p>week ^[21] - 788:10, 789:24, 798:8, 798:16, 801:13, 809:19, 836:2, 845:24, 852:3, 852:6, 852:7, 857:4, 857:22, 857:24, 947:7, 947:9, 963:22, 999:7</p> <p>weekends ^[2] - 936:20, 936:21</p> <p>weeks ^[9] - 813:19, 831:18, 832:2, 833:14, 846:22, 854:4, 854:7, 895:16, 981:6</p> <p>weigh ^[2] - 840:2, 862:19</p> <p>weight ^[4] - 877:17, 883:7, 883:9, 883:11</p> <p>welder ^[2] - 915:21, 915:22</p> <p>welder's ^[6] - 972:15, 972:18, 972:23, 972:25, 973:4, 973:9</p> <p>welding ^[1] - 915:23</p> <p>weren't ^[1] - 991:23</p> <p>westbound ^[3] - 890:18, 891:11</p> <p>whereabouts ^[2] - 843:15, 843:19</p> <p>White ^[1] - 963:8</p> <p>white ^[8] - 881:3, 891:2, 891:19, 892:20, 892:25, 893:20, 893:22, 940:10</p> <p>whited ^[1] - 893:6</p> <p>whites ^[1] - 824:9</p> <p>whole ^[9] - 826:12, 910:23, 920:2, 945:15, 951:23, 951:25, 952:3, 981:12, 999:13</p> <p>wide ^[2] - 888:10, 888:12</p> <p>window ^[1] - 835:9</p> <p>winter ^[1] - 921:11</p> <p>wintertime ^[1] - 978:6</p> <p>wise ^[1] - 999:5</p> <p>wish ^[5] - 796:6, 904:2, 904:25, 978:23, 1000:3</p> <p>wishes ^[1] - 903:1</p> <p>witness ^[25] - 785:17, 785:23, 786:4, 786:11, 789:16, 806:20, 807:2, 819:2, 841:23, 871:15, 871:16, 871:20, 894:9, 904:5, 904:6, 904:13, 906:17, 906:22, 912:17, 912:23, 920:9, 932:12, 932:13, 949:13, 996:25</p> <p>Witness ^[2] - 806:19, 912:16</p> <p>WITNESS ^[61] - 786:2, 786:9, 786:22, 787:6, 787:8, 787:10, 792:12, 792:15,</p>	<p>793:4, 793:25, 794:14, 806:23, 824:2, 824:4, 824:6, 824:8, 824:10, 838:19, 872:15, 872:18, 872:20, 887:20, 902:18, 906:19, 912:21, 916:19, 916:22, 923:13, 923:15, 929:6, 929:8, 931:25, 932:2, 932:20, 936:7, 936:9, 936:12, 950:21, 950:23, 954:13, 954:25, 955:2, 955:4, 970:13, 974:16, 974:18, 980:14, 980:20, 983:24, 984:3, 984:6, 984:9, 984:15, 989:9, 989:14, 989:18, 990:21, 991:1, 991:4, 991:7, 997:8</p> <p>witnesses ^[4] - 887:11, 902:20, 903:1, 999:25</p> <p>woman ^[1] - 910:20</p> <p>wooden ^[3] - 893:9, 894:6, 894:11</p> <p>word ^[3] - 897:22, 954:12, 996:13</p> <p>words ^[1] - 984:11</p> <p>wore ^[1] - 833:2</p> <p>workday ^[1] - 1003:12</p> <p>worker ^[1] - 949:18</p> <p>works ^[5] - 869:18, 915:6, 915:8, 915:10, 915:23</p> <p>Workshop ^[1] - 973:24</p> <p>world ^[2] - 844:8, 974:23</p> <p>worry ^[1] - 904:18</p> <p>worth ^[1] - 815:18</p> <p>wound ^[32] - 877:21, 877:22, 878:2, 878:3, 878:14, 878:15, 878:18, 878:19, 878:21, 878:25, 879:15, 879:17, 880:1, 880:3, 880:20, 880:21, 880:25, 882:9, 882:16, 882:17, 884:25, 885:11, 885:25, 886:2, 886:15, 886:20, 886:21, 886:22, 886:25</p> <p>wounds ^[6] - 876:16, 876:17, 880:1, 881:6, 881:7, 882:15</p> <p>write ^[9] - 812:1, 812:18, 812:21, 812:24, 849:6, 849:8, 967:17, 967:24, 998:5</p> <p>writes ^[1] - 849:2</p> <p>written ^[1] - 1003:24</p> <p>wrote ^[3] - 878:5, 878:6, 997:10</p>	<p>919:15, 919:16, 919:17, 930:21, 946:14, 980:2, 983:20, 983:25, 984:14, 984:16</p> <p>Yellow ^[5] - 816:18, 816:19, 816:22, 816:23, 836:17</p> <p>Yellow's ^[1] - 821:21</p> <p>Yemen ^[6] - 788:3, 788:4, 797:2, 797:3, 797:15, 797:18</p> <p>yesterday ^[1] - 785:5</p> <p>YORK ^[1] - 784:1</p> <p>York ^[16] - 784:7, 784:18, 784:20, 784:22, 873:3, 873:5, 873:16, 874:7, 874:13, 888:3, 888:4, 907:5, 907:6, 916:7, 916:9, 972:24</p> <p>young ^[4] - 792:8, 818:13, 829:7, 829:8</p> <p>younger ^[11] - 807:24, 830:15, 830:16, 830:21, 830:22, 908:6, 908:18, 908:19, 921:2, 979:23, 979:24</p> <p>yourself ^[12] - 793:2, 832:1, 843:12, 852:24, 853:1, 853:5, 853:8, 853:9, 853:11, 853:14, 854:3, 908:2</p>
	<p style="text-align: center;">Y</p> <p>year ^[30] - 786:17, 788:7, 797:7, 801:7, 808:2, 850:4, 850:5, 850:9, 850:22, 854:5, 857:5, 858:15, 863:17, 863:18, 895:8, 914:5, 917:2, 921:9, 921:13, 926:15, 926:20, 926:21, 929:20, 933:12, 962:25, 963:1, 985:9, 985:11</p> <p>Year's ^[1] - 825:25</p> <p>years ^[54] - 786:19, 787:1, 788:8, 788:9, 790:12, 807:11, 811:4, 812:13, 812:16, 830:20, 830:24, 840:9, 840:21, 840:24, 844:18, 845:5, 845:9, 846:25, 847:6, 848:1, 848:12, 848:18, 848:24, 853:21, 853:23, 855:14, 855:18, 873:17, 874:4, 874:5, 876:7, 888:1, 895:5, 912:5, 912:7, 913:19, 914:17, 916:3, 916:4, 916:5, 916:10, 919:1,</p>	<p style="text-align: center;">Z</p> <p>zero ^[4] - 812:14, 812:15, 849:1, 849:2</p> <p>zero-to-life ^[1] - 849:1</p> <p>Ziploc ^[1] - 894:19</p> <p>zippered ^[4] - 892:19, 893:5, 894:4, 894:18</p>